PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

ARTICLE 5
PREVENTION AND CONTROL OF DISEASES AND DISABILITIES

PART 51
GENERAL PROVISIONS

333.5101 Definitions and principles of construction.

Sec. 5101. (1) As used in this article:

(a) "Care" includes treatment, control, transportation, confinement, and isolation in a facility or other location.

(b) "Communicable disease" means an illness due to a specific infectious agent or its toxic products that results from transmission of that infectious agent or its products from a reservoir to a susceptible host, directly as from an infected individual or animal, or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

(c) "HIV" means human immunodeficiency virus.

(d) "HIV infection" or "HIV infected" means the status of an individual who is infected with HIV, as evidenced by any of the following:

(*i*) An HIV test, or a combination of tests, that is considered a confirmatory diagnostic test according to prevailing medical technology and algorithms or guidance from the federal Centers for Disease Control and Prevention.

(*ii*) An HIV test that is approved by the department.

(e) "Immunization" means the process of increasing an individual's immunity to a disease by use of a vaccine, antibody preparation, or other substance.

(f) "Infection" means the invasion of the body with microorganisms or parasites, whether or not the invasion results in detectable pathologic effects.

(g) "Serious communicable disease or infection" means a communicable disease or infection that is designated as serious by the department under this part. Serious communicable disease or infection includes, but is not limited to, HIV infection, acquired immunodeficiency syndrome, sexually transmitted infection, and tuberculosis.

(h) "Sexually transmitted infection" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, and other sexually transmitted infections that the department may designate and require to be reported under section 5111.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2016, Act 63, Eff. July 4, 2016;—Am. 2018, Act 534, Eff. Mar. 28, 2019.

Compiler's note: For transfer of certain powers and duties of the bureau of infectious disease control from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5110 Expedited partner therapy.

Sec. 5110. (1) To protect and promote the public health of individuals in this state, expedited partner therapy is authorized as provided in this section. Expedited partner therapy is authorized to protect individuals in this state from the spread of sexually transmitted infections, which can cause infertility and ectopic pregnancies. The department may promulgate rules under the administrative procedures act of 1969 that it determines necessary to implement and administer this section. In addition to the requirements of section 5111, the department shall include in the list of reportable diseases, infections, and disabilities a separate list of sexually transmitted infections for which expedited partner therapy as authorized in this section is appropriate. In developing the list, the department shall consult with the federal centers for disease control and prevention and health professionals in this state.

(2) In addition to treating his or her patient, a health professional may provide expedited partner therapy if all of the following requirements are met:

(a) The patient has a laboratory-confirmed or suspected clinical diagnosis of a sexually transmitted infection.

(b) The patient indicates that he or she has a partner with whom the patient has engaged in sexual activity

within the 60-day period immediately before the diagnosis of a sexually transmitted infection.

(c) The patient indicates that his or her partner is unable or is unlikely to seek clinical services in a timely manner.

(3) A health professional who provides expedited partner therapy as authorized in this section shall do all of the following:

(a) Dispense or prescribe the therapy in the name of the partner, if known, without the physical examination of the partner by the health professional. Notwithstanding any provision of this act or rules to the contrary, if the name of the partner is not known, the health professional shall dispense or prescribe the therapy in the name of "expedited partner therapy".

(b) Convey to the patient that it is important to notify his or her partner of his or her diagnosis and that it is important for the partner to obtain medical care for a complete evaluation, testing for sexually transmitted infections, counseling, and treatment.

(c) Distribute to the patient the information sheet developed under subsection (4).

(4) The department shall develop and distribute to local health departments and, upon request, distribute to health professionals subject to this section an information sheet that includes all of the following information:

(a) A description of expedited partner therapy and its purpose.

(b) A statement that a common therapy for certain sexually transmitted infections is antibiotic therapy and that, if the expedited partner therapy dispensed or prescribed for the reader includes antibiotic therapy, the information sheet contains important warnings and information of which the reader should be aware.

(c) A warning that identifies contraindications for expedited partner therapy.

(d) A warning about the dangers of administering certain antibiotic therapies to a pregnant individual.

(e) Information about antibiotics dispensed or prescribed in antibiotic therapy and dosages of those antibiotics dispensed or prescribed.

(f) A warning about the risk of allergies to and drug interactions with antibiotics described in subdivision (e).

(g) Information about sexually transmitted infections, the treatment of diagnosed sexually transmitted infections, and the prevention of sexually transmitted infections.

(h) A notice that the partner should be tested for sexually transmitted infections.

(i) A notice of the risk to the patient, his or her partner, and others, including the public health, if a sexually transmitted infection is not completely treated.

(j) A notice of the responsibility of the patient to notify his or her sexual partners of the risk of sexually transmitted infections and the importance of examination and treatment for sexually transmitted infections.

(k) A statement advising any individual who has any questions regarding anything in the information sheet to contact his or her health professional or local health department.

(*l*) A statement that the cost of drugs dispensed pursuant to a prescription issued in the name of expedited partner therapy must be paid by the individual filling the prescription if that individual does not have prescription drug coverage under a health benefit plan or third-party reimbursement arrangement.

(5) This section does not require a health benefit plan or third-party reimbursement arrangement to pay for or provide reimbursement for expedited partner therapy authorized under this section unless the partner who receives the therapy is listed as a member, subscriber, contract holder, or beneficiary under the health benefit plan or third-party reimbursement arrangement.

(6) Except as otherwise provided in this subsection, a health professional who provides expedited partner therapy as authorized in this section is not liable for damages in a civil action or subject to administrative action under sections 16221 and 16226 for personal injury, death, or other consequences arising from or related in any way to the provision of expedited partner therapy by the health professional. This subsection does not apply if the action of the health professional in providing expedited partner therapy is gross negligence.

(7) As used in this section:

(a) "Expedited partner therapy" is the indirect treatment of a partner of a patient who has been diagnosed as having a sexually transmitted infection through the dispensing or prescribing of antibiotic drug or other treatment that is the standard of care for sexually transmitted infections in accordance with guidelines established by the federal centers for disease control and prevention for the treatment of the partner without the physical examination of the partner by a health professional.

(b) "Health professional" means any of the following:

(*i*) An individual licensed or otherwise authorized to engage in a health profession under article 15 and whose scope of practice includes the diagnosis and treatment of sexually transmitted infections.

(*ii*) For the purpose of dispensing therapy under this section, a pharmacist who is licensed or otherwise authorized to engage in the practice of pharmacy under article 15.

(c) "Sexual activity" includes sexual contact and sexual penetration as those terms are defined in section 5129.

(d) "Sexually transmitted infection" means 1 of the following:

(*i*) Until the department establishes a separate list under subsection (1), a sexually transmitted infection for which the federal centers for disease control and prevention recommends the use of expedited partner therapy.

(*ii*) On and after the date the department establishes a separate list under subsection (1), a sexually transmitted infection included in that list.

History: Add. 2014, Act 525, Imd. Eff. Jan. 14, 2015.

Popular name: Act 368

333.5111 List of reportable diseases, infections, and disabilities; rules.

Sec. 5111. (1) In carrying out its authority under this article, the department shall maintain a list of reportable diseases, infections, and disabilities that designates and classifies communicable, serious communicable, chronic, or noncommunicable diseases, infections, and disabilities. The department shall review and revise the list under this subsection at least annually.

(2) In carrying out its authority under this article, the department may promulgate rules to do any of the following:

(a) Establish requirements for reporting and other surveillance methods for measuring the occurrence of diseases, infections, and disabilities and the potential for epidemics. Rules promulgated under this subdivision may require a licensed health professional or health facility to submit to the department or a local health department, on a form provided by the department, a report of the occurrence of a communicable disease, serious communicable disease or infection, or disability. The rules promulgated under this subdivision may require a report to be submitted to the department not more than 24 hours after a licensed health professional or health facility determines that an individual has a serious communicable disease or infection.

(b) Investigate cases, epidemics, and unusual occurrences of diseases, infections, and situations with a potential for causing diseases.

(c) Establish procedures for controlling diseases and infections, including, but not limited to, immunization and environmental controls.

(d) Establish procedures for preventing, detecting, and treating disabilities and rehabilitating individuals suffering from disabilities or disease, including nutritional problems.

(e) Establish procedures for controlling rabies and the disposition of nonhuman agents carrying disease, including rabid animals.

(f) Establish procedures for reporting known or suspected cases of lead poisoning or undue lead body burden.

(g) Designate communicable diseases or serious communicable diseases or infections for which local health departments are required to furnish care, including, but not limited to, tuberculosis and sexually transmitted infection.

(h) Implement this part and parts 52 and 53, including, but not limited to, rules for discovering, caring for, and reporting an individual having or suspected of having a communicable disease or a serious communicable disease or infection, and establishing approved tests under section 5123 and approved prophylaxes under section 5125.

(3) The department shall promulgate rules providing for the confidentiality of reports, records, and data pertaining to testing, care, treatment, reporting, and research associated with communicable diseases and serious communicable diseases or infections.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1989, Act 174, Imd. Eff. Aug. 22, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2016, Act 64, Eff. July 4, 2016.

Popular name: Act 368

Administrative rules: R 325.60 and R 325.171 et seq. of the Michigan Administrative Code.

333.5112 Pandemic influenza plan; establishment and maintenance; annual review and update; availability to public; report.

Sec. 5112. (1) The department shall establish and maintain a pandemic influenza plan. The department shall consult with the United States department of health and human services and the federal centers for disease control and prevention to ensure that the pandemic influenza plan established by this state is consistent with the national preparedness efforts. The department, in consultation with the department of agriculture and the local health departments in this state, shall review and update the pandemic influenza plan at least annually. The department shall make the pandemic influenza plan and any updates to that plan available to the public through its website.

(2) Beginning 1 year after the effective date of this section and annually thereafter, the department shall prepare a report regarding the pandemic influenza plan established under subsection (1), including an assessment of the plan's effectiveness and this state's preparedness for an influenza outbreak, and present that report to the appropriate standing committees and appropriations subcommittees of the senate and house of representatives of the legislature that primarily address public health issues.

History: Add. 2006, Act 163, Imd. Eff. May 26, 2006.

Popular name: Act 368

333.5113 Medical treatment, testing, or examination as violative of personal religious beliefs; compliance with provisions regarding sanitation and reporting of diseases.

Sec. 5113. (1) Except as otherwise provided in part 52 and section 9123, this article and articles 6 and 9 or the rules promulgated under those articles shall not be construed to require the medical treatment, testing, or examination of an individual who objects on the grounds that the medical treatment, testing, or examination violates the personal religious beliefs of the individual or of the parent, guardian, or person in loco parentis of a minor.

(2) This section does not exempt an individual from compliance with applicable laws, rules, or regulations regarding sanitation and the reporting of diseases as provided by this code.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 491, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5114 HIV infected test subject; report; form.

Sec. 5114. (1) Except as otherwise provided in this section, a person or governmental entity that obtains from a test subject a confirmatory diagnostic test result that indicates that the test subject is HIV infected or from a test subject who has already been diagnosed as HIV infected a clinical test result for medical monitoring ordered to evaluate immune system status, to quantify HIV levels, or to diagnose acquired immunodeficiency syndrome shall, within a time frame determined by the department, report to the appropriate local health department or, if requested by the local health department, to the department on a form provided by the department or through electronic methods approved by the department all of the following information, if available:

(a) The name and address of the person or governmental entity that submits the report.

(b) The name, address, and telephone number of the health care provider who diagnosed the test subject or who ordered the test.

(c) The name, date of birth, race, sex, address, and telephone number of the test subject.

(d) The date on which the specimen was collected for testing.

(e) The type of test performed.

(f) The test result.

(g) If known, whether or not the test subject has tested positive for the presence of HIV or an antibody to HIV on a previous occasion.

(h) The probable method of transmission.

(i) The purpose of the test.

(j) Any other medical or epidemiological information considered necessary by the department for the surveillance, control, and prevention of HIV infections, as described in rules promulgated by the department.

(2) An individual who undergoes a test for HIV or an antibody to HIV in a physician's private practice office or the office of a physician employed by or under contract to a health maintenance organization or who submits a specimen for either of those tests to that physician may request that the report made by the physician under this section not include the name, address, and telephone number of the test subject. Except as otherwise provided in section 5114a, if such a request is made under this subsection, the physician shall comply with the request and submit the specimen to the laboratory without the name, address, or telephone number of the test subject.

History: Add. 1988, Act 489, Eff. Mar. 30, 1989;—Am. 2004, Act 514, Eff. Apr. 1, 2005;—Am. 2018, Act 539, Eff. Mar. 28, 2019.

Popular name: Act 368

333.5114a Referral of individual to local health department; assistance with partner notification; information; legal obligation to inform sexual partners; criminal sanctions; partner notification program; confidentiality; priority duty of local health department; destruction of reports, records, and data; information exempt from disclosure.

Sec. 5114a. (1) A person or governmental entity that administers a test for HIV or an antibody to HIV to an

individual shall refer the individual to the appropriate local health department for assistance with partner notification if both of the following conditions are met:

(a) The test results indicate that the individual is HIV infected.

(b) The person or governmental entity that administered the test determines that the individual needs assistance with partner notification.

(2) A person or governmental entity that refers an individual to a local health department under subsection (1) shall provide the local health department with information determined necessary by the local health department to carry out partner notification. Information required under this subsection may include, but is not limited to, the name, address, and telephone number of the individual test subject.

(3) A local health department to which an individual is referred under subsection (1) shall inform the individual that he or she has a legal obligation to inform each of his or her sexual partners of the individual's HIV infection before engaging in sexual relations with that sexual partner, and that the individual may be subject to criminal sanctions for failure to so inform a sexual partner.

(4) A partner notification program operated by a local health department must include notification of individuals who are sexual or hypodermic needle-sharing partners of the individual tested under subsection (1). Partner notification is confidential and must be conducted in the form of a direct, one-to-one conversation between the employee of the local health department and the partner of the test subject.

(5) If a local health department receives a report under section 5114(1) that indicates that a resident of this state or an individual located in this state is HIV infected, the local health department shall make it a priority to do all of the following:

(a) Attempt to interview the individual and offer to contact the individual's sexual partners and, if applicable, hypodermic needle-sharing or drug-sharing partners. If the subject of the report is determined to have been infected with HIV in utero, the local health department shall attempt to interview the individual's parent or legal guardian, or both. The interview conducted under this subdivision is voluntary on the part of the individual being interviewed. A local health department shall perform the interview or attempted interview required under this subdivision within 14 days after receipt of a report under section 5114(1).

(b) Within 35 days after the interview conducted under subdivision (a), confidentially, privately, and in a discreet manner contact each individual identified as a sexual or hypodermic needle-sharing or drug-sharing partner regarding the individual's possible exposure to HIV. The local health department shall not reveal to an individual identified as a partner the identity of the individual who has tested positive for HIV or an antibody to HIV except if authorized to do so by the individual who named the contact, and if needed to protect others from exposure to HIV or from transmitting HIV. The local health department shall provide each individual interviewed under subdivision (a) and each individual contacted under this subdivision with all of the following information:

(*i*) Available medical tests for HIV, an antibody to HIV, and any other indicator of HIV infection.

(*ii*) Steps to take in order to avoid transmission of HIV.

(*iii*) Other information considered appropriate by the department.

(6) Each local health department shall report to the department on the reports, records, and data pertaining to information acquired by the local health department under this section. Except as otherwise required by federal law, the reports, records, and data of a local health department, stored on the local health department's server or contained in its paper files, pertaining to information acquired by the local health department under this section, must be destroyed within 365 days after the date the local health department received the information.

(7) Information acquired by the department or a local health department under this section or section 5114 is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 1988, Act 489, Eff. Mar. 30, 1989;—Am. 2004, Act 514, Eff. Apr. 1, 2005;—Am. 2018, Act 567, Eff. Mar. 28, 2019.

Popular name: Act 368

333.5115 Communicable diseases and serious communicable diseases and infections; minimum procedures and standards for control and elimination.

Sec. 5115. The department may establish minimum procedures and standards for health officers and other persons charged with administration and enforcement of the laws of this state relating to the discovery and care of an individual having or suspected of having a communicable disease or a serious communicable disease or infection. The procedures shall be reasonably related to the control and elimination of communicable diseases and serious communicable diseases and infections, and shall not conflict with the procedures for the control and elimination of communicable diseases and serious communicable diseases and infections set forth in this article.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5117 Individual with serious communicable disease or infection; order authorizing care; report; authority not restricted; financial liability for care.

Sec. 5117. (1) A local health department that knows that an individual who has a serious communicable disease or infection, including, but not limited to, tuberculosis or sexually transmitted infection, but not including HIV infection and acquired immunodeficiency syndrome, regardless of the individual's domicile, is in the local health department's jurisdiction and requires care, immediately shall furnish the necessary care in accordance with requirements established by the department under section 5111(2)(g). The local health department shall issue an order authorizing the care.

(2) The local health department promptly shall report the action taken under this section to the county department of human services of the individual's probable place of domicile.

(3) This section does not restrict the authority of the local health department in furnishing care to the individual, pending determination by the local health department or, upon its request, by the county department of human services of the probable place of domicile of the individual.

(4) Financial liability for care rendered under this section shall be determined in accordance with part 53.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2016, Act 65, Eff. July 4, 2016.

Popular name: Act 368

333.5119 Individual applying for marriage license; availability of tests for sexually transmitted infection and HIV infection; educational materials; informing HIV infected applicant of test results; definitions.

Sec. 5119. (1) An individual who is applying for a marriage license shall be advised through the distribution of written educational materials by the county clerk regarding prenatal care and the transmission and prevention of sexually transmitted infection and HIV infection. The written educational materials must describe the availability to the applicant of tests for both sexually transmitted infection and HIV infection. The information must include a list of locations where HIV counseling and testing services funded by the department are available. The department shall approve or prepare the written educational materials.

(2) A county clerk shall not issue a marriage license to an applicant who fails to sign and file with the county clerk an application for a marriage license that includes a statement with a check-off box indicating that the applicant has received the educational materials regarding the transmission and prevention of both sexually transmitted infection and HIV infection and has been advised of testing for both sexually transmitted infection and HIV infection, under subsection (1).

(3) If either applicant for a marriage license undergoes a test for HIV or an antibody to HIV, and if the test results indicate that an applicant is HIV infected, the physician or his or her designee, the physician's assistant, the certified nurse midwife, the certified nurse practitioner, the clinical nurse specialist-certified, or the local health officer or his or her designee administering the test immediately shall inform both applicants of the test results and shall counsel both applicants regarding the modes of HIV transmission, the potential for HIV transmission to a fetus, and protective measures.

(4) As used in this section:

(a) "Certified nurse midwife" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification in the practice of nurse midwifery by the Michigan board of nursing under section 17210.

(b) "Certified nurse practitioner" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification as a nurse practitioner by the Michigan board of nursing under section 17210.

(c) "Clinical nurse specialist-certified" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification as a clinical nurse specialist by the Michigan board of nursing under section 17210.

(d) "Physician" means an individual who is licensed as a physician under part 170 or part 175.

(e) "Physician's assistant" means an individual who is licensed as a physician's assistant under part 170 or part 175.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1990, Act 46, Imd. Eff. Mar. 30, 1990;—Am. 1994, Act 75, Imd. Eff. Apr. 11, 1994;—Am. 2000, Act 209, Eff. Jan. 1, 2001;—Am. 2016, Act 66, Eff. July 4, 2016;—Am. 2016, Act 499, Eff. Apr. 9, 2017.

Popular name: Act 368

333.5121 Prohibited conduct; misdemeanor.

Sec. 5121. A person who commits any of the following acts is guilty of a misdemeanor:

(a) A county clerk who issues a marriage license to an individual who fails to present a certificate required under section 5119(2).

(b) A person who knows that an applicant for a marriage license has taken a test for sexually transmitted infection or HIV infection, or both, and who discloses either the fact that the applicant has taken the test or the results of the test, or both, except as required by law, and except as provided under section 5131.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 2016, Act 67, Eff. July 4, 2016.

Popular name: Act 368

333.5123 Initial examination or third trimester of pregnant woman or woman recently delivering infant; test specimens required; exceptions; record; availability of test results and records.

Sec. 5123. (1) Except as otherwise provided in subsection (3), a physician or an individual otherwise authorized by law to provide medical treatment to a pregnant woman shall take or cause to be taken at the time of the woman's initial examination test specimens of the woman for the purpose of performing tests for HIV, syphilis, and hepatitis B, and take or cause to be taken during the third trimester of the woman's pregnancy test specimens of the woman for the purpose of performing tests for HIV, hepatitis B, and syphilis in accordance with guidelines established by the federal Centers for Disease Control and Prevention, and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing tests approved by the department for the infections described in this subsection.

(2) Except as otherwise provided in subsection (3), if, when a woman appears at a health care facility to deliver an infant or for care in the immediate postpartum period having recently delivered an infant outside a health care facility, no record of results from the tests required under subsection (1) is readily available to the physician or individual otherwise authorized to provide care in such a setting, then the physician or individual otherwise authorized to provide care shall take or cause to be taken test specimens of the woman and shall submit the specimens to a clinical laboratory approved by the department for the purpose of performing tests approved by the department for syphilis, HIV, and hepatitis B.

(3) Subsections (1) and (2) do not apply if, in the professional opinion of a physician, the tests are medically inadvisable or the woman does not consent to be tested. The woman may orally communicate her decision to decline the testing.

(4) The physician or other individual described in subsections (1) and (2) shall make and retain a record showing the date the tests required under subsections (1) and (2) were ordered and the results of the tests. If the tests were not ordered by the physician or other person, the record must contain an explanation of why the tests were not ordered.

(5) The test results and the records required under subsection (4) are not public records, but are available to a local health department and to a physician who provides medical treatment to the woman or her offspring.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 2016, Act 68, Eff. July 4, 2016;—Am. 2018, Act 538, Eff. Mar. 28, 2019.

Popular name: Act 368

333.5125 Birth of infant; treatment of eyes; report.

Sec. 5125. A licensed health professional in charge of the care of a newborn infant, or if none, the licensed health professional in charge at the birth of an infant, shall treat the eyes of the infant with 1 or more of the prophylaxes approved by the department within 1 hour after the birth of the infant, or as soon after the birth of the infant as the health professional is present. If any redness, swelling, inflammation, or gathering of pus appears in the eyes of the infant or upon the lids or about the eyes of the infant within 2 weeks after the date of birth, a nurse, nurse-midwife, or other person having care of the infant shall report the condition to the physician in charge of the care of the infant, or if there is not a physician in charge of the care of the infant, to the local health department, within 6 hours after the discovery of the redness, swelling, inflammation, or gathering of pus.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5127 Minor infected with sexually transmitted infection or HIV; consent to treatment; informing spouse, parent, guardian, or person in loco parentis; financial responsibility.

Sec. 5127. (1) Subject to section 5133, the consent to the provision of medical or surgical care, treatment,

or services by a hospital, clinic, or physician that is executed by a minor who is or professes to be infected with a sexually transmitted infection or HIV is valid and binding as if the minor had achieved the age of majority. The consent is not subject to later disaffirmance by reason of minority. The consent of any other person, including a spouse, parent, or guardian, or person in loco parentis, is not necessary to authorize the services described in this subsection to be provided to a minor.

(2) For medical reasons a treating physician, and on the advice and direction of the treating physician, a physician, a member of the medical staff of a hospital or clinic, or other health professional, may inform the spouse, parent, guardian, or person in loco parentis as to the treatment given or needed. The information may be given to or withheld from these persons without consent of the minor and notwithstanding the express refusal of the minor to the providing of the information.

(3) A spouse, parent, guardian, or person in loco parentis of a minor is not financially responsible for surgical care, treatment, or services provided under this section.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989;—Am. 2016, Act 69, Eff. July 4, 2016.

Popular name: Act 368

333.5129 Individuals arrested and charged, bound over, or convicted of certain crimes; examination or testing for certain diseases; partner notification; expedited examination or testing; information and counseling; providing name, address, and telephone number of victim or individual; providing test results to victim or individual; transmitting test results and other medical information; confidentiality; referral of individual for appropriate medical care; financial responsibility; applicability of subsections (2), (3), and (4) to certain individuals; costs; definitions.

Sec. 5129. (1) An individual arrested and charged with violating section 448, 449, 449a, 450, 452, or 455 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, 750.449a, 750.450, 750.452, and 750.455, or a local ordinance prohibiting prostitution or engaging or offering to engage the services of a prostitute may, upon order of the court, be examined or tested to determine whether the individual has sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, or acquired immunodeficiency syndrome. Examination or test results that indicate the presence of sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, or acquired immunodeficiency syndrome must be reported to the defendant and, pursuant to sections 5114 and 5114a, to the department and the appropriate local health department for partner notification.

(2) Except as otherwise provided in this section, if an individual is arrested and charged with violating section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or section 7404 by intravenously using a controlled substance, or a local ordinance prohibiting prostitution, solicitation, gross indecency, or the intravenous use of a controlled substance, the judge or magistrate responsible for setting the individual's conditions of release pending trial shall distribute to the individual the information on sexually transmitted infection and HIV infection required to be distributed by county clerks under section 5119(1) and shall recommend that the individual obtain additional information and counseling at a local health department testing and counseling center regarding sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome. Counseling under this subsection is voluntary on the part of the individual.

(3) If a defendant is bound over to circuit court for violating section 145a, 338, 338a, 338b, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, and the district court determines there is reason to believe the violation involved sexual penetration or exposure to a body fluid of the defendant, the district court shall order the defendant to be examined or tested for sexually transmitted infection, hepatitis B infection, and hepatitis C infection and for the presence of HIV or an antibody to HIV. The circuit court shall order the examination or testing if the defendant is brought before it by way of indictment for any of the violations described in this subsection. If a defendant is bound over to or brought before the circuit court for violating section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, the court shall, upon the victim's request, order the examination or testing to be done not later than 48 hours after the date that the information or indictment is presented and the defendant is in custody or has been served with the information or indictment. The court shall include in its order for expedited examination or testing at the victim's request under this subsection a provision that requires follow-up examination or testing that is considered medically

appropriate based on the results of the initial examination or testing. Except as provided in subsection (5), (6), or (7), or as otherwise provided by law, the examinations and tests must be confidentially administered by a licensed physician, the department, or a local health department. The court also shall order the defendant to receive counseling regarding sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome, including, at a minimum, information regarding treatment, transmission, and protective measures.

(4) Except as otherwise provided in this section, upon conviction of a defendant or the issuance by the probate court of an order adjudicating a child to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for violating section 145a, 338, 338a, 338b, 448, 449, 449a, 450, 452, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.338, 750.338a, 750.338b, 750.448, 750.449, 750.449a, 750.450, 750.452, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or section 7404 by intravenously using a controlled substance, or a local ordinance prohibiting prostitution, solicitation, gross indecency, or the intravenous use of a controlled substance, the court that has jurisdiction of the criminal prosecution or juvenile hearing shall order the defendant or child to be examined or tested for sexually transmitted infection, hepatitis B infection, and hepatitis C infection and for the presence of HIV or an antibody to HIV. Except as provided in subsection (5), (6), or (7), or as otherwise provided by law, the examinations and tests must be confidentially administered by a licensed physician, the department, or a local health department. The court also shall order the defendant or child to receive counseling regarding sexually transmitted infection, hepatitis B infection, hepatitis C infection, HIV infection, and acquired immunodeficiency syndrome, including, at a minimum, information regarding treatment, transmission, and protective measures.

(5) If the victim or individual with whom the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, engaged in sexual penetration or sexual contact or who was exposed to a body fluid during the course of the crime consents, the court or probate court shall provide the person or agency conducting the examinations or administering the tests under subsection (3) or (4) with the name, address, and telephone number of the victim or individual with whom the defendant or child engaged in sexual penetration or sexual contact or who was exposed to a body fluid of the defendant during the course of the crime. If the victim or individual with whom the defendant or child engaged in sexual penetration during the course of the crime is a minor or otherwise incapacitated, the victim's or individual's parent, guardian, or person in loco parentis may give consent for purposes of this subsection. After the defendant or child is examined or tested as to the presence of sexually transmitted infection, hepatitis B infection, hepatitis C infection, or HIV or an antibody to HIV, or if the defendant or child receives appropriate follow-up testing for the presence of HIV, the person or agency conducting the examinations or administering the tests shall immediately provide the examination or test results to the victim or individual with whom the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, engaged in sexual penetration or sexual contact or who was exposed to a body fluid during the course of the crime and shall refer the victim or other individual for appropriate counseling.

(6) The examination or test results and any other medical information obtained from the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, by the person or agency conducting the examinations or administering the tests under subsection (3) or (4) must be transmitted to the court or probate court and, after the defendant or child is sentenced or an order of disposition is entered, made part of the court record. The examination or test results and any other medical information described in this subsection are confidential and may be disclosed only to 1 or more of the following:

(a) The defendant or child.

(b) The local health department.

(c) The department.

(d) The victim or other individual required to be informed of the results under this subsection or subsection (5) or, if the victim or other individual is a minor or otherwise incapacitated, to the victim's or other individual's parent, guardian, or person in loco parentis.

(e) Upon written authorization of the defendant or child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or the child's parent, guardian, or person in loco parentis.

(f) As otherwise provided by law.

(7) If the defendant is placed in the custody of the department of corrections, the court shall transmit a copy of the defendant's examination and test results and other medical information to the department of corrections. If the child found to be within the provisions of section 2(a)(1) of chapter XIIA of the probate

code of 1939, 1939 PA 288, MCL 712A.2, is placed by the probate court in the custody of an individual related to the child or a public or private agency, institution, or facility, the probate court shall transmit a copy of the child's examination or test results to the individual related to the child or the director of the agency, institution, or facility. A person or agency that discloses information in compliance with this subsection or subsection (6) is not civilly or criminally liable for making the disclosure. A person or agency that receives test results or other medical information pertaining to HIV infection or acquired immunodeficiency syndrome under this subsection or subsection (6) is subject to section 5131 and shall not disclose the test results or other medical information except as specifically permitted under that section.

(8) If an individual receives counseling or is examined or tested under this section and is found to be infected with sexually transmitted infection, hepatitis B, or hepatitis C or to be HIV infected, the individual must be referred by the agency providing the counseling or testing for appropriate medical care. The department, the local health department, or any other agency providing counseling or testing under this section is not financially responsible for medical care received by an individual as a result of a referral made under this subsection.

(9) The requirements for the distribution of information concerning sexually transmitted infection, counseling concerning sexually transmitted infection, and examining or testing for sexually transmitted infection under subsections (2), (3), and (4) do not apply to an individual charged with or convicted of violating section 7404 by intravenously using a controlled substance or violating a local ordinance prohibiting the intravenous use of a controlled substance.

(10) The court may, upon conviction or the issuance by the probate court of an order adjudicating a child to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, order an individual who is examined or tested under this section to pay the actual and reasonable costs of that examination or test incurred by the licensed physician or local health department that administered the examination or test.

(11) An individual who is ordered to pay the costs of an examination or test under subsection (10) shall pay those costs within 30 days after the order is issued or as otherwise provided by the court. The amount ordered to be paid under subsection (10) must be paid to the clerk of the court, who shall transmit the appropriate amount to the physician or local health department named in the order. If an individual is ordered to pay a combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments upon conviction in addition to the costs ordered under subsection (10), the payments must be allocated as provided under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712B.41, the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, and the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834. An individual who fails to pay the costs within the 30-day period or as otherwise ordered by the court is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

(12) As used in this section:

(a) "Sexual contact" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

(b) "Sexual penetration" means that term as defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

(c) "Victim" includes, but is not limited to, a victim as that term is defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a.

History: Add. 1988, Act 471, Eff. Mar. 30, 1989;—Am. 1994, Act 1, Imd. Eff. Feb. 16, 1994;—Am. 1994, Act 72, Imd. Eff. Apr. 11, 1994;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1995, Act 253, Imd. Eff. Jan. 5, 1996;—Am. 2004, Act 98, Imd. Eff. May 13, 2004;—Am. 2014, Act 321, Eff. Jan. 12, 2015;—Am. 2016, Act 70, Eff. July 4, 2016.

Popular name: Act 368

333.5131 HIV infection and acquired immunodeficiency syndrome; confidentiality of reports, records, data, and information; test results; limitations and restrictions on disclosures in response to court order and subpoena; information released to legislative body; applicability of subsection (1); immunity; identification of individual; violation as misdemeanor; penalty.

Sec. 5131. (1) All reports, records, and data pertaining to testing, care, treatment, reporting, and research, and information pertaining to partner notification under section 5114a, that are associated with HIV infection and acquired immunodeficiency syndrome are confidential. A person shall release reports, records, data, and information described in this subsection only pursuant to this section.

(2) Except as otherwise provided by law, the test results of a test for HIV infection or acquired

immunodeficiency syndrome and the fact that such a test was ordered is information that is subject to section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

(3) The disclosure of information pertaining to HIV infection or acquired immunodeficiency syndrome in response to a court order and subpoena is limited to only the following cases and is subject to all of the following restrictions:

(a) A court that is petitioned for an order to disclose the information shall determine both of the following:

(*i*) That other ways of obtaining the information are not available or would not be effective.

(*ii*) That the public interest and need for the disclosure outweigh the potential for injury to the patient.

(b) If a court issues an order for the disclosure of the information, the order must do all of the following:

(*i*) Limit disclosure to those parts of the patient's record that are determined by the court to be essential to fulfill the objective of the order.

(*ii*) Limit disclosure to those persons whose need for the information is the basis for the order.

(*iii*) Include any other measures as considered necessary by the court to limit disclosure for the protection of the patient.

(4) A person who releases information pertaining to HIV infection or acquired immunodeficiency syndrome to a legislative body shall not identify in the information a specific individual who was tested or is being treated for HIV infection or acquired immunodeficiency syndrome.

(5) Subject to subsection (7), subsection (1) does not apply to the following:

(a) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed to the department, a local health department, or other health care provider for 1 or more of the following purposes:

(*i*) To protect the health of an individual.

(*ii*) To prevent further transmission of HIV.

(*iii*) To diagnose and care for a patient.

(b) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by a physician or local health officer to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the physician or local health officer determines that the disclosure of the information is necessary to prevent a reasonably foreseeable risk of further transmission of HIV. This subdivision imposes an affirmative duty upon a physician or local health officer to disclose information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome to an individual who is known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome. A physician or local health officer may discharge the affirmative duty imposed under this subdivision by referring the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome to the appropriate local health department for assistance with partner notification under section 5114a. The physician or local health officer shall include as part of the referral the name and, if available, address and telephone number of each individual known by the physician or local health officer to be a contact of the individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome.

(c) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by an authorized representative of the department or by a local health officer to an employee of a school district, and if the department representative or local health officer determines that the disclosure is necessary to prevent a reasonably foreseeable risk of transmission of HIV to pupils in the school district. An employee of a school district to whom information is disclosed under this subdivision is subject to subsection (1).

(d) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the disclosure is expressly authorized in writing by the individual. This subdivision applies only if the written authorization is specific to HIV infection or acquired immunodeficiency syndrome. If the individual is a minor or incapacitated, the written authorization may be executed by the parent or legal guardian of the individual.

(e) Information disclosed under section 5114, 5114a, 5119(3), 5129, 5204, or 20191 or information disclosed as required by rule promulgated under section 5111.

(f) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is part of a report required under the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(g) Information pertaining to an individual who is HIV infected or has been diagnosed as having acquired immunodeficiency syndrome, if the information is disclosed by the department, the probate court, or a child

placing agency in order to care for a minor and to place the minor with a child care organization licensed under 1973 PA 116, MCL 722.111 to 722.128. The person disclosing the information shall disclose it only to the director of the child care organization or, if the child care organization is a private home, to the individual who holds the license for the child care organization. An individual to whom information is disclosed under this subdivision is subject to subsection (1). As used in this subdivision, "child care organization" and "child placing agency" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

(6) A person who releases the results of an HIV test or other information described in subsection (1) in compliance with subsection (5) is immune from civil or criminal liability and administrative penalties including, but not limited to, licensing sanctions, for the release of that information.

(7) A person who discloses information under subsection (5) shall not include in the disclosure information that identifies the individual to whom the information pertains, unless the identifying information is determined by the person making the disclosure to be reasonably necessary to prevent a foreseeable risk of transmission of HIV, to protect the health of the individual to whom the information pertains, to prevent the further transmission of HIV, or to diagnose and care for a patient. A person disclosing identifying information under this subsection shall disclose only the minimum information necessary to accomplish the intended purpose of the disclosure. This subsection does not apply to information disclosed under subsection (5)(d), (f), or (g).

(8) A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both, and is liable in a civil action for actual damages or $1,000.00, whichever is greater, and costs and reasonable attorney fees. This subsection also applies to the employer of a person who violates this section, unless the employer had in effect at the time of the violation reasonable precautions designed to prevent the violation.

History: Add. 1988, Act 488, Eff. Mar. 30, 1989;—Am. 1989, Act 174, Imd. Eff. Aug. 22, 1989;—Am. 1989, Act 271, Imd. Eff. Dec. 26, 1989;—Am. 1992, Act 86, Eff. Mar. 31, 1993;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1997, Act 57, Eff. Jan. 1, 1998;—Am. 2010, Act 119, Imd. Eff. July 13, 2010;—Am. 2018, Act 536, Eff. Mar. 28, 2019.

Popular name: Act 368

Administrative rules: R 325.9001 et seq. of the Michigan Administrative Code.

333.5133 Information on HIV testing; notification of testing and opportunity for questions; authority to decline; partner notification; HIV test performed for purpose of research; inapplicability of section; conditions; informing patient of test results.

Sec. 5133. (1) Except as otherwise provided by law, a physician who orders an HIV test or a health facility that performs an HIV test shall provide information appropriate to the test subject both before and after the test is administered.

(2) A test subject or his or her authorized representative who provides general informed consent for medical care is considered to have consented to an HIV test. A separate consent form for an HIV test is not required. However, except as otherwise provided by law, a health care provider shall not order an HIV test for a test subject without first doing both of the following:

(a) Informing the test subject or his or her legally authorized representative verbally or in writing that an HIV test will be performed unless the test subject or his or her legally authorized representative declines the HIV test.

(b) Offering the test subject or his or her legally authorized representative an opportunity to ask questions and decline the HIV test.

(3) If a test subject or the test subject's legally authorized representative declines an HIV test under subsection (2), the decision must be documented in the test subject's medical record.

(4) If a test subject undergoes an HIV test at a department approved testing site and the test results of the HIV test performed under this subsection indicate that the test subject is HIV infected, the staff of the department approved testing site shall proceed with partner notification in the same manner in which a local health department would proceed as described in section 5114a(3) to (5).

(5) This section does not apply to an HIV test performed for the purpose of research, if the test is performed in such a manner that the identity of the test subject is not revealed to the researcher and the test results are not made known to the test subject.

(6) Except as otherwise provided in subsection (8), this section does not apply to an HIV test performed on a patient in a health facility if the conditions in subdivisions (a) and (b) or the conditions in subdivisions (a) and (c) are met:

(a) The patient is informed in writing upon admission to the health facility that an HIV test may be performed on the patient without his or her right to decline under circumstances described in subdivision (b)

or (c). As used in this subdivision, "admission" means the provision of an inpatient or outpatient health care service in a health facility.

(b) The HIV test is performed after a health professional, health facility employee, police officer, or fire fighter, or a medical first responder, emergency medical technician, emergency medical technician specialist, or paramedic licensed under section 20950 or 20952 sustains in the health facility, while treating the patient before transport to the health facility, or while transporting the patient to the health facility, a percutaneous, mucous membrane, or open wound exposure to the blood or other body fluids of the patient.

(c) The HIV test is performed pursuant to a request made under section 20191(2).

(7) Except as otherwise provided in subsection (8), this section does not apply if the test subject is unable to receive or understand the information described in subsections (1) and (2) or to decline the test as described in subsection (3), and a legally authorized representative of the test subject is not readily available to receive the information or decline for the test subject.

(8) If the results of an HIV test performed under this section indicate that the patient is HIV infected, the health facility shall inform the patient of the positive test results and shall provide the patient with appropriate counseling regarding HIV infection and acquired immunodeficiency syndrome and referrals to expedite HIV treatment and services. If the results of an HIV test performed under this section indicate that the patient is not HIV infected, that information must be provided to the patient through normal health care provider procedures.

History: Add. 1988, Act 488, Eff. Mar. 30, 1989;—Am. 1994, Act 200, Imd. Eff. June 21, 1994;—Am. 1994, Act 420, Eff. Mar 30, 1995;—Am. 2010, Act 320, Eff. Jan. 1, 2011;—Am. 2018, Act 535, Eff. Mar. 28, 2019.

Popular name: Act 368

333.5139 Report by physician or optometrist; definitions.

Sec. 5139. (1) A physician or an optometrist has no affirmative obligation to but may voluntarily report to the secretary of state or warn third parties regarding a patient's mental and physical qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons and property due to an episode. A physician or an optometrist who chooses not to make a report to the secretary of state or warn third parties as provided for under this subsection is immune from any criminal or civil liability to the patient or third party that may have been injured by the patient's actions.

(2) A physician or an optometrist may make a report under this section and submit that report to the secretary of state for the purpose of initiating or contributing to an examination of an applicant's physical and mental qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons and property pursuant to section 309 of the Michigan vehicle code, 1949 PA 300, MCL 257.309. In making that report, the physician or optometrist shall recommend a period of suspension as determined appropriate by the physician or optometrist as follows:

(a) In the case of a patient holding an operator's license, that the suspension be for at least 6 months or longer.

(b) In the case of a patient holding a commercial license, that the suspension be for at least 12 months or longer.

(3) A physician or an optometrist making a report under subsection (2), acting in good faith and exercising due care as evidenced by documenting his or her file or medical record regarding an episode, is immune from any civil or criminal liability resulting from the report to the patient or a third party that may have been injured by the patient's actions.

(4) As used in this section:

(a) "Episode" means any of the following:

(*i*) An experience derived from a condition that causes or contributes to loss of consciousness, blackout, seizure, a fainting spell, syncope, or any other impairment of the level of consciousness.

(*ii*) An experience derived from a condition that causes an impairment of an individual's driving judgment.

(*iii*) An experience derived from an impairment of an individual's vision.

(b) "Optometrist" means that term as defined under part 174.

(c) "Physician" means that term as defined under part 170 or 175.

History: Add. 2012, Act 354, Imd. Eff. Dec. 13, 2012.

333.5141 Reflex sympathetic dystrophy/complex regional pain syndrome (RSD/CRPS); work group; education program; materials and brochures; funds.

Sec. 5141. (1) Upon appropriation of the necessary funding to support the work group and the education program, the department shall establish a reflex sympathetic dystrophy/complex regional pain syndrome (RSD/CRPS) work group that is composed of both public and private sector members. The RSD/CRPS work

group, in consultation with health care providers and health-related organizations, shall develop and coordinate an RSD/CRPS education program to promote public awareness of the causes of RSD/CRPS and the value of early detection, diagnosis, and treatment of this disease. The RSD/CRPS program shall include a public education and outreach campaign utilizing written materials and brochures to promote awareness of RSD/CRPS among consumers, health care providers, teachers, and human services providers and to enable individuals to make informed decisions about their health. The written materials and brochures shall include, but are not limited to, information regarding each of the following:

(a) Cause and nature of RSD/CRPS.

(b) Risk factors that contribute to the manifestation of RSD/CRPS.

(c) All available treatment options for RSD/CRPS including the risks and benefits of each of those options.

(d) Environmental safety and injury prevention.

(e) Rest and use of appropriate body mechanics.

(f) Any other information that is relevant to RSD/CRPS.

(2) The educational materials and brochures developed under subsection (1) shall be made available to the public through the department's website or health promotions clearinghouse hotline and, if sufficient funding is available, the educational materials and brochures shall be distributed to local health departments, hospitals, and health care providers for distribution to the public. The RSD/CRPS work group shall also facilitate as a part of the RSD/CRPS program educational workshops that are open to the public. The workshops shall include, at a minimum, at least 1 physician presenter who is licensed under article 15 and is knowledgeable about RSD/CRPS.

(3) The department may accept and utilize federal or state funds or other public or private grants, gifts, donations, or appropriations to carry out the purposes of this section, including, but not limited to, promoting research to accurately identify, diagnose, and treat this disease.

History: Add. 2006, Act 678, Imd. Eff. Jan. 10, 2007.

Popular name: Act 368

333.5145 Report on implementation of recommendations for nursing home COVID-19 preparedness; statewide policy for nursing home visitations; care and recovery center requirements; designated area for positive coronavirus patients; "coronavirus" defined.

Sec. 5145. (1) The department, in consultation with the department of licensing and regulatory affairs, shall do all of the following:

(a) By November 15, 2020, develop and submit a report to the house and senate standing committees on health policy that is based on relevant guidance issued by the federal Centers for Disease Control and Prevention and incorporates recommendations from the Michigan nursing homes COVID-19 preparedness task force. The report must include, but is not limited to, a description of any updates to the final recommendations of the Michigan nursing homes COVID-19 preparedness task force in its report dated August 30, 2020, the status on implementing the recommendations, and a description of any barriers to implementing the recommendations. The department may use health care systems and hospital capacity data when preparing the report. The report must also address each of the following quality-of-life recommendations from the task force report described in this subdivision:

(*i*) Outdoor visits.

(*ii*) Small-group noncontact activities.

(*iii*) Communal dining for residents.

(*iv*) Indoor visitation participation opt-in.

(*v*) Resident small-group "pod" opt-in.

(*vi*) Increased virtual visitation opportunities.

(*vii*) Staff access to creative engagement ideas.

(*viii*) Support for meaningful engagement activities.

(*ix*) Ancillary service providers.

(*x*) Visitation volunteers.

(*xi*) Off-campus health and wellness visits.

(*xii*) Window visits.

(b) By November 15, 2020, implement a statewide policy for nursing homes on providing in-person indoor and outdoor visitations to all nursing home residents. The department shall post a copy of the policy on the department's publicly available website and post any updates to the policy within 48 hours after making the updates. The department shall also provide a copy of the policy to the house and senate standing committees on health policy. The policy may limit in-person indoor and outdoor visitations for a nursing home resident who tests positive for coronavirus, if a nursing home is experiencing an outbreak of coronavirus, or if a

community is experiencing an outbreak of coronavirus.

(c) By November 15, 2020, develop and submit a report to the house and senate standing committees on health policy on the department's plans to identify laboratories that will process and prioritize coronavirus diagnostic tests from nursing homes. The report must include the department's plans for issuing requests for proposals that include a provision requiring a successful bidder to be able to process a high volume of tests, including, but not limited to, rapid testing for coronavirus and provide expedited results.

(d) By November 15, 2020, implement a process for the creation of care and recovery centers within nursing homes for the purpose of providing care to individuals who have tested positive for coronavirus who have not met the criteria for the discontinuation of transmission-based precautions from the federal Centers for Disease Control and Prevention. The department shall require a nursing home seeking to operate a care and recovery center to apply to the department on a form provided by the department and meet all of the following requirements:

(*i*) Demonstrate each of the following to the department:

(A) That the nursing home has at least an overall rating of 3 stars or a 3-star rating in the staffing category, based on the Five-Star Quality Rating System established by the federal Centers for Medicare and Medicaid Services.

(B) That the nursing home is not operating under a denial of payment for new admissions under 42 CFR 488.417.

(C) That the nursing home is not designated on the Nursing Home Compare website of the federal Centers for Medicare and Medicaid Services as a "red hand facility", indicating a citation for abuse.

(D) That the nursing home meets physical plant capacity to designate a distinct area within the nursing home for individuals who have tested positive for coronavirus.

(E) That the nursing home has dedicated staff for the sole purpose of treating individuals in the care and recovery center.

(*ii*) Agrees to comply with any facility requirements that the department considers appropriate to prevent the spread of coronavirus in nursing homes, including, but not limited to, infection control safeguards, personal protective equipment, testing for coronavirus, and operational capacity.

(*iii*) Agrees to comply with all of the following if an individual tests positive for coronavirus and needs to be transferred to a care and recovery center or other location described in this section:

(A) Provide a notice to the individual; if applicable, the individual's legal representative; and, if the individual consents, the individual's emergency contact.

(B) That a physician, a nurse practitioner, or a physician's assistant shall provide, in writing and in a time frame and manner determined by the department, that the individual is medically stable for the transfer.

(*iv*) Any other requirement established by the department in consultation with the department of licensing and regulatory affairs.

(e) By November 15, 2020, implement a process for the approval of designated areas within nursing homes for individuals who test positive for coronavirus. The department shall require a nursing home seeking to establish a designated area within its facility to apply to the department on a form provided by the department and meet all of the following requirements:

(*i*) Demonstrate each of the following to the department:

(A) That the nursing home has a program for retaining and providing the appropriate level of care necessary for individuals who test positive for coronavirus and that the program has an adequate supply of personal protective equipment and adequate testing capabilities, dedicated staffing, and operational capacity at the time of an individual's diagnosis.

(B) That the nursing home's designated area meets proper infection control safeguards.

(C) That there is no longer capacity at a care and recovery center and additional facilities are needed for individuals who test positive for coronavirus, unless the department determines that there are rare and unique circumstances that must be taken to protect the health and safety of an individual.

(*ii*) Agrees to continually evaluate and ensure its ability to meet each requirement for the approval of a designated area under this subdivision.

(*iii*) Any other requirement established by the department in consultation with the department of licensing and regulatory affairs.

(2) As used in this section, "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

History: Add. 2020, Act 231, Imd. Eff. Oct. 22, 2020;—Am. 2020, Act 311, Imd. Eff. Dec. 29, 2020.

Popular name: Act 368

333.5145a Weekly posting of nursing home data related to coronavirus; "coronavirus"

defined.

Sec. 5145a. (1) By November 15, 2020, and each week thereafter, the department, in consultation with the department of licensing and regulatory affairs, shall post data on the department's publicly accessible website that includes, but is not limited to, all of the following for each nursing home in this state or any information that the department determines is similar to the following:

(a) The new number of coronavirus positive cases among nursing home residents and staff for the reporting period.

(b) The new number of coronavirus deaths among nursing home residents and staff for the reporting period.

(c) The new number of nursing homes conducting new coronavirus tests for the reporting period.

(d) The new number of nursing home residents from another nursing home that were previously diagnosed with coronavirus and continue to require transmission-based precautions.

(e) The cumulative number of coronavirus positive cases among nursing home residents and staff, to date.

(f) The cumulative number of coronavirus deaths among nursing home residents and staff, to date.

(g) The cumulative number of nursing home residents from another nursing home who were previously diagnosed with coronavirus and continue to require transmission-based precautions.

(h) An inventory of current stock of medical supplies and personal protective equipment.

(i) The current version of any visitation policy issued by the department affecting nursing homes.

(2) By November 15, 2020, and weekly thereafter, the department shall also post on the department's publicly available website the historical data that the department has collected regarding coronavirus in nursing homes. The data described in this subsection must be posted in a manner that provides for longitudinal tracking and trending of, at a minimum, cases of coronavirus, deaths resulting from coronavirus, and testing for coronavirus in nursing homes.

(3) As used in this section, "coronavirus" means that term as defined in section 5145.

History: Add. 2020, Act 244, Imd. Eff. Nov. 5, 2020.

Popular name: Act 368

PART 52

HAZARDOUS COMMUNICABLE DISEASES

333.5201 Definitions and principles of construction.

Sec. 5201. (1) As used in this part:

(a) "Carrier" means an individual who serves as a potential source of infection and who harbors or who the department reasonably believes to harbor a specific infectious agent or a serious communicable disease or infection, whether or not there is present discernible disease.

(b) "Health threat to others" means that an individual who is a carrier has demonstrated an inability or unwillingness to conduct himself or herself in such a manner as to not place others at risk of exposure to a serious communicable disease or infection. Health threat to others includes, but is not limited to, 1 or more of the following:

(*i*) Behavior by the carrier that has been demonstrated epidemiologically to transmit, or that evidences a careless disregard for transmission of, a serious communicable disease or infection to others.

(*ii*) A substantial likelihood that the carrier will transmit a serious communicable disease or infection to others, as evidenced by the carrier's past behavior or statements made by the carrier that are credible indicators of the carrier's intention to do so.

(*iii*) Affirmative misrepresentation by the carrier of his or her status as a carrier before engaging in behavior that has been demonstrated epidemiologically to transmit the serious communicable disease or infection.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 490, Eff. Mar. 30, 1989.

Compiler's note: For transfer of certain powers and duties of the bureau of infectious disease control from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5203 Warning notice generally.

Sec. 5203. (1) Upon a determination by a department representative or a local health officer that an individual is a carrier and is a health threat to others, the department representative or local health officer shall

issue a warning notice to the individual requiring the individual to cooperate with the department or local health department in efforts to prevent or control transmission of serious communicable diseases or infections. The warning notice may also require the individual to participate in education, counseling, or treatment programs, and to undergo medical tests to verify the person's status as a carrier.

(2) A warning notice issued under subsection (1) shall be in writing, except that in urgent circumstances, the warning notice may be an oral statement, followed by a written statement within 3 days. A warning notice shall be individual and specific and shall not be issued to a class of persons. A written warning notice shall be served either by registered mail, return receipt requested, or personally by an individual who is employed by, or under contract to, the department or a local health department.

(3) A warning notice issued under subsection (1) shall include a statement that unless the individual takes the action requested in the warning notice, the department representative or local health officer shall seek an order from the probate court, pursuant to this part. The warning notice shall also state that, except in cases of emergency, the individual to whom the warning notice is issued has the right to notice and a hearing and other rights provided in this part before the probate court issues an order.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 490, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5204 Request for testing made by officer, employee, or individual making lawful arrest; procedures; rules; definitions.

Sec. 5204. (1) A police officer, a fire fighter, a local correctional officer or other county employee, a court employee, or an individual making a lawful arrest may proceed under this section if he or she has received training in the transmission of bloodborne diseases under the rules governing exposure to bloodborne diseases in the workplace promulgated by the occupational health standards commission or incorporated by reference under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(2) A police officer, a fire fighter, a local correctional officer or other county employee, a court employee, or an individual making a lawful arrest who has received the training described in subsection (1) and who, while performing his or her official duties or otherwise performing the duties of his or her employment, determines that he or she has sustained a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of an arrestee, correctional facility inmate, parolee, or probationer may request that the arrestee, correctional facility inmate, parolee, or probationer be tested for HIV infection, HBV infection, HCV infection, or all 3 infections, pursuant to this section.

(3) An officer or employee or an individual making a lawful arrest who desires to make a request described in subsection (2) shall make the request to his or her employer in writing on a form provided by the department as soon as possible, but not later than 72 hours, after the exposure occurs. The request form shall be dated and shall contain, at a minimum, the name and address of the officer, employee, or individual making a lawful arrest making the request and a description of his or her exposure to the blood or other body fluids of the arrestee, correctional facility inmate, parolee, or probationer. The request form shall also contain a statement that the requester is subject to the confidentiality requirements of subsection (7) and section 5131. The request form shall not contain information that would identify the arrestee, correctional facility inmate, parolee, or probationer by name, except if necessary to identify the individual for purposes of testing under this section.

(4) The employer of an individual making a request under subsections (2) and (3) shall accept as fact the requester's description of his or her exposure to blood or other body fluids as described in subsection (2). The requester's employer shall have the test for HIV infection, HBV infection, HCV infection, or all 3 infections performed by the local health department or by a health care provider designated by the local health department. If the test subject consents to the performance of the test or tests named in the request, the requester's employer shall transport the test subject to the local health department or designated health care provider for testing, or a representative of the local health department or designated health care provider shall come to where the test subject is held or housed to take a blood or other body fluid sample for testing, as soon as practicable after the local health department receives the request for testing from the requester's employer. If the test subject refuses to undergo 1 or more tests specified in the request, the requester's employer may proceed with a petition to the family division of the circuit court in the manner provided in section 5205 or 5207, as appropriate.

(5) A local health department or a health care provider designated by the local health department that performs 1 or more tests under this section may charge the officer or employee or arresting individual requesting the test for the reasonable and customary charges of each test. The officer or employee or arresting individual requesting the test is responsible for the payment of the charges if the charges are not payable by the officer's or employee's or arresting individual's employer, pursuant to an agreement between the officer or

employee or arresting individual and the employer, or by the officer's or employee's or arresting individual's health care payment or benefits plan. A local health department or a health care provider designated by the local health department to perform an HIV test under this section is not required to provide HIV counseling pursuant to section 5133(1) to an officer or employee or arresting individual who requests that an arrestee, correctional facility inmate, parolee, or probationer be tested for HIV under this section, unless the local health department or designated health care provider tests the officer or employee or arresting individual for HIV.

(6) A local health department or a health care provider designated by the local health department to perform a test under this section shall, on a form provided by the department, notify the requesting officer or employee or arresting individual of the HIV test, HBV test, or HCV test results, as applicable, whether positive or negative, within 2 days after the test results are obtained by the local health department or designated health care provider. The notification shall be transmitted directly to the requesting officer or employee or arresting individual or, upon request of the requesting officer or employee or arresting individual, to his or her primary care physician or to another health professional designated by the officer or employee or arresting individual. The notification required under this subsection shall include an explanation of the confidentiality requirements of subsection (7). The notification required under this subsection shall also contain a statement recommending that the requesting officer, employee, or arresting individual undergo an HIV test, an HBV test, or an HCV test, or all 3 tests.

(7) The notice required under subsection (6) shall not contain information that would identify the arrestee, correctional facility inmate, parolee, or probationer who tested positive or negative for HIV, HBV, or HCV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111, and section 5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(8) The department may promulgate rules to administer this section. The department shall develop and distribute the forms required under this section.

(9) In addition to the penalties prescribed in the rules promulgated under section 5111 and in section 5131, a person who discloses information in violation of subsection (7) is guilty of a misdemeanor.

(10) A local health department or designated health care provider shall report to the department each test result obtained under this section that indicates that an individual is HIV infected, in compliance with section 5114.

(11) A person or governmental entity that makes a good faith effort to comply with subsections (1) to (6) is immune from civil liability or criminal penalty based on compliance with, or the failure to comply with, those subsections.

(12) As used in this section and section 5205:

(a) "Correctional facility" means a municipal or county jail, work camp, lockup, holding center, halfway house, community corrections center, or any other facility maintained by a municipality or county that houses adult prisoners. Correctional facility does not include a facility owned or operated by the department of corrections.

(b) "Employee" means a county employee or a court employee.

(c) "HBV" means hepatitis B virus.

(d) "HBV infected" or "HBV infection" means the status of an individual who is tested as HBsAg-positive.

(e) "HCV" means hepatitis C virus.

(f) "HCV infected" or "HCV infection" means the status of an individual who has tested positive for the presence of HCV antibodies or has tested positive for HBV using an RNA test.

(g) "HIV" means human immunodeficiency virus.

(h) "HIV infected" means that term as defined in section 5101.

(i) "Individual making a lawful arrest" or "arresting individual" means 1 of the following:

(*i*) A private security police officer authorized to make an arrest without a warrant under section 30 of the private security business and security alarm act, 1968 PA 330, MCL 338.1080, and section 15 of the code of criminal procedure, 1927 PA 175, MCL 764.15.

(*ii*) A merchant, agent of a merchant, employee of a merchant, or independent contractor providing security for a merchant authorized to make an arrest in the merchant's store and in the course of his or her employment as prescribed by section 16(d) of the code of criminal procedure, 1927 PA 175, MCL 764.16. Individual making a lawful arrest or arresting individual does not include a private person authorized to make an arrest under section 16(a) and (b) of the code of criminal procedure, 1927 PA 175, MCL 764.16.

(j) "Local correctional officer" means an individual employed by a local governmental unit in a correctional facility as a corrections officer.

(k) "Officer" means a law enforcement officer, motor carrier officer, or property security officer employed by the state, a law enforcement officer employed by a local governmental unit, a fire fighter employed by or volunteering for a local governmental unit, or a local correctional officer.

History: Add. 1997, Act 57, Eff. Jan. 1, 1998;—Am. 2010, Act 119, Imd. Eff. July 13, 2010.

Popular name: Act 368

333.5205 Failure or refusal to comply with warning notice; petition; hearing; notice; waiver; orders; recommendation and duties of commitment review panel and circuit court; appeal to circuit court; termination or continuation of commitment; cost of implementing order; right to counsel; appeal to court of appeals; leaving facility or refusal to undergo testing for certain infections as contempt.

Sec. 5205. (1) If a department representative or a local health officer knows or has reasonable grounds to believe that an individual has failed or refused to comply with a warning notice issued under section 5203, the department or local health department may petition the circuit court for the county of Ingham or for the county served by the local health department for an order as described in subsection (6).

(2) A petition filed under subsection (1) shall state all of the following:

(a) The grounds and underlying facts that demonstrate that the individual is a health threat to others and, unless an emergency order is sought under section 5207, has failed or refused to comply with a warning notice issued under section 5203.

(b) The petitioner's effort to alleviate the health threat to others before the issuance of the warning notice, unless an emergency order is sought under section 5207.

(c) The type of relief sought.

(d) A request for a court hearing on the allegations set forth in the petition.

(3) If a test subject refuses to undergo a test requested by an officer or employee or an arresting individual under section 5204, the officer's or employee's or arresting individual's employer may petition the circuit court for the county in which the employer is located or the appropriate district court for an order as described in subsection (7).

(4) A petition filed under subsection (3) shall state all of the following:

(a) Substantially the same information contained in the request made to an officer's or employee's or arresting individual's employer under section 5204(2) and (3), except that the petition shall contain the name of the arrestee, correctional facility inmate, parolee, or probationer who is the proposed test subject.

(b) The reasons for the officer's or employee's or arresting individual's determination that the exposure described in the request made under section 5204(2) and (3) could have transmitted HIV, HBV, or HCV, or all or a combination of those viruses, along with the date and place the officer or employee or arresting individual received the training in the transmission of bloodborne diseases required under section 5204(1).

(c) The fact that the arrestee, correctional facility inmate, parolee, or probationer has refused to undergo the test or tests requested under section 5204(2) and (3).

(d) The type of relief sought.

(e) A request for a court hearing on the allegations set forth in the petition.

(5) Upon receipt of a petition filed under subsection (1), the circuit court shall fix a date for hearing that shall be as soon as possible, but not later than 14 days after the date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on the individual and on the petitioner not less than 3 days before the date of the hearing. Notice of the hearing shall include notice of the individual's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (12). The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the circuit court may hear the petition immediately. Upon receipt of a petition filed under subsection (3), the circuit court or the district court shall fix a date for hearing that shall be as soon as possible, but not later than 24 hours after the time and date the petition is filed. Notice of the petition and the time and place of the hearing shall be served personally on both the proposed test subject under section 5204 and the petitioner within a time period that is reasonable under the circumstances. Notice of the hearing shall include notice of the proposed test subject's right to appear at the hearing, the right to present and cross-examine witnesses, and the right to counsel as provided in subsection (12). The proposed test subject and the petitioner may waive notice of the hearing, and upon filing of the waiver in writing, the circuit court or the district court may hear the petition filed under subsection (3) immediately.

(6) Upon a finding by the circuit court that the department or local health department has proven the allegations set forth in a petition filed under subsection (1) by clear and convincing evidence, the circuit court may issue 1 or more of the following orders:

(a) An order that the individual participate in a designated education program.

(b) An order that the individual participate in a designated counseling program.

(c) An order that the individual participate in a designated treatment program.

(d) An order that the individual undergo medically accepted tests to verify the individual's status as a carrier or for diagnosis.

(e) An order that the individual notify or appear before designated health officials for verification of status, testing, or other purposes consistent with monitoring.

(f) An order that the individual cease and desist conduct that constitutes a health threat to others.

(g) An order that the individual live part-time or full-time in a supervised setting for the period and under the conditions set by the circuit court.

(h) Subject to subsection (8), an order that the individual be committed to an appropriate facility for the period and under the conditions set by the circuit court. A commitment ordered under this subdivision shall not be for more than 6 months, unless the director of the facility, upon motion, shows good cause for continued commitment.

(i) Any other order considered just by the circuit court.

(7) Upon a finding by the circuit court or the district court that the officer's or employee's or arresting individual's employer has proven the allegations set forth in a petition filed under subsection (3), including, but not limited to, the requesting officer's or employee's or arresting individual's description of his or her exposure to the blood or body fluids of the proposed test subject, the circuit court or the district court may issue an order requiring the proposed test subject to undergo a test for HIV infection, HBV infection, or HCV infection, or all or a combination of the 3 infections.

(8) The circuit court shall not issue an order authorized under subsection (6)(h) unless the court first considers the recommendation of a commitment review panel appointed by the court under this subsection to review the need for commitment of the individual to a health facility. The commitment review panel shall consist of 3 physicians appointed by the court from a list of physicians submitted by the department. Not less than 2 of the physicians shall have training and experience in the diagnosis and treatment of serious communicable diseases and infections. However, upon the motion of the individual who is the subject of the order, the court shall appoint as 1 member of the commitment review panel a physician who is selected by the individual. The commitment review panel shall do all of the following:

(a) Review the record of the proceeding.

(b) Interview the individual, or document the reasons why the individual was not interviewed.

(c) Recommend either commitment or an alternative or alternatives to commitment, and document the reasons for the recommendation.

(9) An individual committed to a facility under subsection (6)(h) may appeal to the circuit court for a commitment review panel recommendation as to whether or not the patient's commitment should be terminated. Upon the filing of a claim of appeal under this subsection, the court shall reconvene the commitment review panel appointed under subsection (5) as soon as practicable, but not more than 14 days after the filing of the claim of appeal. Upon reconvening, the commitment review panel shall do all of the following:

(a) Review the appeal and any other information considered relevant by the commitment review panel.

(b) Interview the individual, or document the reasons why the individual was not interviewed.

(c) Recommend to the court either termination or continuation of the commitment, and document the reasons for the recommendation.

(10) Upon receipt of the recommendation of the commitment review panel under subsection (9), the circuit court may terminate or continue the commitment.

(11) The cost of implementing an order issued under subsection (6) shall be borne by the individual who is the subject of the order, unless the individual is unable to pay all or a part of the cost, as determined by the circuit court. If the court determines that the individual is unable to pay all or a part of the cost of implementing the order, then the state shall pay all of the cost or that part of the cost that the individual is unable to pay, upon the certification of the department. The cost of implementing an order issued under subsection (7) shall be borne by the arrestee, correctional facility inmate, parolee, or probationer who is tested under the order.

(12) An individual who is the subject of a petition filed under this section or an affidavit filed under section 5207 has the right to counsel at all stages of the proceedings. If the individual is unable to pay the cost of counsel, the circuit court shall appoint counsel for the individual.

(13) An order issued by the circuit court under subsection (6) may be appealed to the court of appeals. The court of appeals shall hear the appeal within 30 days after the date the claim of appeal is filed with the court of appeals. However, an order issued by the circuit court under subsection (6) shall not be stayed pending

appeal, unless ordered by the court of appeals on motion for good cause. An order issued by the circuit court under subsection (7) may be appealed to the court of appeals. The court of appeals shall hear the appeal within 15 days after the date the claim of appeal is filed with the court of appeals. However, an order issued by the circuit court under subsection (7) shall not be stayed pending appeal, unless ordered by the court of appeals on motion for good cause. An order issued by a district court under subsection (7) may be appealed to the circuit court for the county in which the district court is located. The circuit court shall hear the appeal within 15 days after the date the claim of appeal is filed with the circuit court. However, an order issued by a district court under subsection (7) shall not be stayed pending appeal, unless ordered by the circuit court on motion for good cause.

(14) An individual committed to a facility under this section who leaves the facility before the date designated in the commitment order without the permission of the circuit court or who refuses to undergo a test for HIV infection, HBV infection, HCV infection, or all or a combination of the 3 infections is guilty of contempt.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 1997, Act 57, Eff. Jan. 1, 1998;—Am. 2000, Act 37, Imd. Eff. Mar. 17, 2000.

Popular name: Act 368

333.5207 Protection of public health in emergency; affidavit; court order; taking individual into custody; transporting individual to emergency care or treatment facility; temporary detention; notice of hearing; continued temporary detention; petition.

Sec. 5207. (1) To protect the public health in an emergency, upon the filing of an affidavit by a department representative or a local health officer, the circuit court may order the department representative, local health officer, or a peace officer to take an individual whom the court has reasonable cause to believe is a carrier and is a health threat to others into custody and transport the individual to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, or treatment and, if determined necessary by the court, temporary detention. If the individual is already institutionalized in a facility, the court may order the facility to temporarily detain the individual. An order issued under this subsection may be issued in an ex parte proceeding upon an affidavit of a department representative or a local health officer. The court shall issue an order under this subsection upon a determination that reasonable cause exists to believe that there is a substantial likelihood that the individual is a carrier and a health threat to others. An order under this subsection may be executed on any day and at any time, and shall be served upon the individual who is the subject of the order immediately upon apprehension or detention.

(2) An affidavit filed by a department representative or a local health officer under subsection (1) shall set forth the specific facts upon which the order is sought including, but not limited to, the reasons why an emergency order is sought.

(3) An individual temporarily detained under subsection (1) shall not be detained longer than 72 hours, excluding Saturdays, Sundays, and legal holidays, without a court hearing to determine if the temporary detention should continue.

(4) Notice of a hearing under subsection (3) shall be served upon the individual not less than 24 hours before the hearing is held. The notice shall contain all of the following information:

(a) The time, date, and place of the hearing.

(b) The grounds and underlying facts upon which continued detention is sought.

(c) The individual's right to appear at the hearing.

(d) The individual's right to present and cross-examine witnesses.

(e) The individual's right to counsel, including the right to counsel designated by the circuit court, as described in section 5205(13).

(5) The circuit court may order that the individual continue to be temporarily detained if the court finds, by a preponderance of the evidence, that the individual would pose a health threat to others if released. An order under this subsection to continued temporary detention shall not continue longer than 5 days, unless a petition is filed under section 5205. If a petition is filed under section 5205, the temporary detention shall continue until a hearing on the petition is held under section 5205.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 1997, Act 57, Eff. Jan. 1, 1998.

Popular name: Act 368

333.5209 Power not limited.

Sec. 5209. This part does not limit the power of the department, a local health department, or the probate court to deal with the prevention and control of communicable diseases and infections.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5210 Intercourse with specific intent or reckless disregard to infect with HIV; felony; violations as misdemeanor.

Sec. 5210. (1) A person who knows that he or she has the human immunodeficiency virus (HIV) who engages in anal or vaginal intercourse with another person without having first informed the other person that he or she has HIV with the specific intent that the uninfected person contract HIV is guilty of a felony.

(2) A person who knows that he or she has HIV who, without having first informed the other person that he or she has HIV, engages in vaginal or anal intercourse, and transmits HIV to an uninfected person causing that person to become HIV positive, acts with reckless disregard and is guilty of a felony.

(3) A person who knows that he or she has HIV who, without having first informed the other person that he or she has HIV, engages in vaginal or anal intercourse, and who acts with reckless disregard but does not transmit HIV, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(4) A person who knows that he or she has HIV who is adherent with the treatment plan of an attending physician and has been medically suppressed per accepted medical standards is not acting with reckless disregard.

History: Add. 1988, Act 490, Eff. Mar. 30, 1989;—Am. 2018, Act 537, Eff. Mar. 28, 2019.

Popular name: Act 368

333.5211-333.5269 Repealed. 1988, Act 491, Eff. Mar. 30, 1989.

Compiler's note: The repealed sections pertained to hazardous communicable diseases.

Popular name: Act 368

PART 53
EXPENSE OF CARE

333.5301 County chargeable with expense of care; reimbursement by state; individuals with tuberculosis or honorable discharges considered domiciled in state at large; expense of care paid by state on certification of department; reasonableness of claims and accounts; appeal.

Sec. 5301. (1) The county in which an individual receiving care under section 5117 has a domicile is chargeable with the expense of the care, and this state shall reimburse that county for all or a portion of the expense in the amounts the legislature appropriates for that purpose. An individual who has tuberculosis and has not acquired a legal settlement in this state in accordance with the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws, or an individual who was honorably discharged from a branch of the military services of the United States and not otherwise hospitalized for the purpose of this part shall be considered to be domiciled in this state at large, and the expense of that individual's care, while the care continues with the approval of the department, shall be paid by the state on certification of the department. The reasonableness and propriety of all claims and accounts under this subsection shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

(2) An individual committed to an inpatient facility for tuberculosis pursuant to a probate court order under section 5205 and not otherwise hospitalized for the purpose of part 51 or 52 shall be considered to be domiciled in this state at large, and the expense of that individual's care, while the care continues with the approval of the department, shall be paid by the state on certification of the department. The reasonableness and propriety of all claims and accounts under this subsection shall be passed upon and determined by the department, subject to appeal to the circuit court for the county of Ingham as to questions of law.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989.

Compiler's note: For transfer of certain powers and duties of the bureau of infectious disease control from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5303 Care provided where individual found at expense of county where individual domiciled; notice; return of individual to county of domicile; disputed or contested claim arising between 2 or more counties; decision.

Sec. 5303. (1) Upon determination by the county department of social services that the place of domicile of

an individual receiving care under section 5117 is in another county in this state, care shall be provided where the individual is found at the expense of the county where the individual is domiciled. The county department of social services, not later than 1 month after the commencement of care, shall mail written notice that the care is being provided to the local department of social services of the individual's county of domicile. The local health department of the county of domicile may provide for the return of the individual to, and care in, that county.

(2) If the domicile of the individual is not acknowledged by the alleged county of domicile within 1 month after mailing the notice under subsection (1), the question of domicile may be submitted for decision to the state department of social services. If a disputed or contested claim arises between 2 or more counties as to the county of domicile, the director of social services shall determine the county of domicile when so requested or on his or her own motion. The decision of the director of social services is final. However, pending determination, the county in which the individual is found shall provide the necessary care.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5305 Determination that county where individual found not county of domicile; reimbursement.

Sec. 5305. Upon determination by the director of social services that the county where the individual is found is not the county of domicile, the county of domicile, as determined by the director of social services, shall reimburse the county where the individual is found for all expenses incurred, less any reimbursements from the state or other source for the care.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5307 Expenditure under MCL 333.5117 considered expenditure for protection of public health, not welfare or relief; reimbursement; notice and hearing; finding; order; distribution of receipts.

Sec. 5307. An expenditure of public funds under section 5117 for the care of an individual is considered an expenditure for the protection of the public health, and not money advanced as welfare or relief. An individual is not legally obligated to reimburse the expense incurred, unless the department and the county of domicile, after reasonable notice and upon a hearing, find that the individual hospitalized or treated, or the persons legally liable for the individual's support, are possessed of sufficient income or estate to enable them to make the reimbursement in whole or in part without materially affecting their reasonable economic security or support, in view of their respective resources, obligations, and responsibilities to dependents and order reimbursement. The order shall not be made retroactive unless the department and the county of domicile find that the person to be charged is guilty of misrepresenting or withholding knowledge of facts material to the issue. Receipts under the order, and money voluntarily paid as reimbursement, shall be distributed pro rata to the funds out of which the expenditure was made.

History: Add. 1988, Act 491, Eff. Mar. 30, 1989.

Popular name: Act 368

PART 54
CHRONIC DISEASES

333.5401 “Chronic disease” defined; general definitions and principles of construction.

Sec. 5401. (1) As used in this part, "chronic disease" includes an impairment or deviation from normal having 1 or more of the following characteristics:

(a) It is permanent.

(b) It leaves residual disability.

(c) It is caused by nonreversible pathological alterations.

(d) It requires special training of the patient for rehabilitation.

(e) It may be expected to require a long period of supervision, observation, or care.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of certain powers and duties of the center for health promotion and chronic disease prevention from the department of public health to the director of the department community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5411 Chronic disease prevention and control program; statewide program as to mental disabilities; establishment; scope; programs continued.

Sec. 5411. (1) The department shall establish a chronic disease prevention and control program which shall include arthritis, cancer, dental disease, diabetes, genetic disease, heart disease, hypertension, renal disease, and any other disease the department designates as chronic pursuant to section 5439. The department shall cooperate with the department of mental health in establishment of a statewide program for genetic screening and counseling in the area of mental disabilities.

(2) Programs established under this part shall continue, at a minimum, the programs established pursuant to Act No. 96 of the Public Acts of 1975, being sections 329.551 to 329.557 of the Michigan Compiled Laws, and Act No. 335 of the Public Acts of 1974, being sections 325.531 to 325.533 of the Michigan Compiled Laws.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5412 Scope of chronic disease program; availability of services subject to appropriation; contracts for programs; evaluation of program; recommending discontinuance of program.

Sec. 5412. (1) The chronic disease program shall include the prevention of chronic diseases; the early detection and reporting of cases; and surveillance, treatment, education, rehabilitation, and maintenance of patients suffering from chronic diseases. The availability of services under this program is subject to appropriations.

(2) The program may include the promotion, support, or conduct of studies or research on chronic diseases and their relation to the health and welfare of the people of this state; the promotion, support, and conduct of programs of community and professional education; the development or purchase and distribution of educational and informational material; the furnishing of laboratory services; and the promotion and establishment of cooperative relationships or programs with hospitals, clinics, social and health agencies, educational and research organizations, and other related groups.

(3) The department may contract with local health departments, other agencies of government, nonprofit corporations, and individuals for carrying out any of these programs.

(4) Periodically, but not less than each 3 years, the department shall evaluate the program to determine its effectiveness.

(5) The public health advisory council, based on appropriate data, may recommend discontinuance of a disease program established under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5413-333.5415 Repealed. 1992, Act 25, Eff. Mar. 30, 1996.

Compiler's note: The repealed sections pertained to establishment of a registry to record cases of spinal cord injury and traumatic brain injury; creation of a spinal cord injury and traumatic brain injury committee; and, appropriation of funds to implement the sections.

Popular name: Act 368

333.5421 Chronic disease advisory committee; creation; appointment of members; committee subject to MCL 333.2215.

Sec. 5421. The chronic disease advisory committee is created in the department. The governor shall appoint the members with the advice and consent of the senate. The committee is subject to section 2215.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the chronic disease advisory committee to the director of the Michigan state department of public health, see E.R.O. No 1994-1, compiled at MCL 333.26322 of the Michigan Compiled Laws.

Popular name: Act 368

333.5423 Chronic disease advisory committee; advising and assisting department; reimbursement for travel expenses.

Sec. 5423. (1) The chronic disease advisory committee shall advise and assist the department in the implementation of this part.

(2) The chronic disease advisory committee members shall be reimbursed for their necessary travel expenses for attendance at meetings pursuant to section 1216.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5425 Chronic disease advisory committee; creation and purpose of subcommittee; chairperson; membership.

Sec. 5425. Except as otherwise provided in section 5414, the chronic disease advisory committee may create a subcommittee to advise it as to a specific chronic disease, determine the size of the subcommittee, and appoint its members, who need not all be members of the committee. The chairperson of a subcommittee shall be a member of the committee. The members of a subcommittee shall be individuals concerned with the prevention and control of the specific chronic disease.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 122, Eff. Mar. 30, 1989.

Popular name: Act 368

333.5429 Terminated. 1978, Act 368, Eff. Sept. 30, 1980.

Compiler's note: Subsection (2) of this section provided :

"(2) This section shall terminate when the renal disease subcommittee of the committee is appointed or 2 years after the effective date of this part, whichever occurs first."

The date the renal disease subcommittee was appointed is not determinable.

Popular name: Act 368

333.5430 Newborn screening quality assurance advisory committee; membership; appointment; screening tests; annual review of list; report; recommendations; approval or rejection by legislature.

Sec. 5430. (1) The newborn screening quality assurance advisory committee is created in the department. The newborn screening quality assurance advisory committee shall consist of 10 members and be appointed by the department as follows:

(a) One individual representing a Michigan nonprofit health care corporation.

(b) One individual representing the Michigan health and hospital association.

(c) One individual representing the Michigan state medical society.

(d) One individual representing the Michigan osteopathic association.

(e) One individual representing the department's medical services administration.

(f) One individual representing the department's public health administration.

(g) One individual who is a neonatologist with experience and background in newborn screening.

(h) One individual representing health maintenance organizations.

(i) Two individuals representing the general public.

(2) The newborn screening quality assurance advisory committee shall meet annually to review the list of newborn screening tests required under section 5431 and under department rules, regulations, and guidelines. The newborn screening quality assurance advisory committee shall, on an annual basis, submit a written report to the department regarding the appropriateness of the existing list of required newborn screening tests. The newborn screening quality assurance advisory committee shall also include in the report recommendations to revise the list to include additional newborn screening tests that are nationally recognized in the scientific literature or national standards for conditions that can be ameliorated or treated if identified by a newborn screening test and to remove certain tests that are no longer supported in the scientific literature or national standard as being effective for ameliorating or treating conditions that can be identified by newborn screening.

(3) The newborn screening quality assurance advisory committee shall conduct a financial review of any recommended changes to the list of newborn screening tests and shall include in the written report required under subsection (2) a recommendation for the increase or decrease in the amount charged pursuant to section 5431 for newborn screening tests. The recommended change shall not exceed any net change in the amount of the actual cost of any proposed additional tests and follow-up minus savings from any proposed deleted tests and follow-up.

(4) Within 30 days after the department has received the report required under subsection (2), the department may approve or reject the recommendations of the newborn screening quality assurance advisory committee. If the department does not reject the recommendations or fails to act within the 30 days, then the recommendations shall be forwarded to the standing committees in the senate and house of representatives that consider issues pertaining to public health for approval.

(5) Within 45 days after the recommendations are forwarded and received, the legislature shall approve or reject those recommendations without amendment by concurrent resolution adopted by both standing

committees of the senate and house of representatives that consider issues pertaining to public health and both houses of the legislature by recorded vote. If the proposed recommendations are not submitted on a legislative session day, the 45 days commence on the first legislative session day after the recommendations are submitted. The 45 days shall include not less than 9 legislative session days. If the recommendations are not rejected within the 45-day period, the recommendations shall be considered approved, shall be adopted by the department, and shall take effect 6 months after the recommendations are adopted by both houses of the legislature or considered approved as provided under this subsection.

History: Add. 2006, Act 31, Imd. Eff. Feb. 23, 2006.

Compiler's note: For transfer of powers and duties of the medical services administration to the health and aging services administration created within the department of health and human services; and abolishment of the medical services administration, see E.R.O. No. 2021-2, compiled at MCL 400.562.

Popular name: Act 368

333.5431 Testing newborn infant for certain conditions; reporting positive test results to parents, guardian, or person in loco parentis; compliance; fee; "Detroit consumer price index" defined; violation as misdemeanor; hardship waiver; conduct of department regarding blood specimens; pamphlet; additional blood specimen for future identification.

Sec. 5431. (1) A health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant shall administer or cause to be administered to the infant a test for each of the following:

(a) Phenylketonuria.

(b) Galactosemia.

(c) Hypothyroidism.

(d) Maple syrup urine disease.

(e) Biotinidase deficiency.

(f) Sickle cell anemia.

(g) Congenital adrenal hyperplasia.

(h) Medium-chain acyl-coenzyme A dehydrogenase deficiency.

(i) Other treatable but otherwise disabling conditions as designated by the department.

(2) The informed consent requirements of sections 17020 and 17520 do not apply to the tests required under subsection (1). The tests required under subsection (1) shall be administered and reported within a time and under conditions prescribed by the department. The department may require that the tests be performed by the department.

(3) If the results of a test administered under subsection (1) are positive, the results shall be reported to the infant's parents, guardian, or person in loco parentis. A person is in compliance with this subsection if the person makes a good faith effort to report the positive test results to the infant's parents, guardian, or person in loco parentis.

(4) Subject to the annual adjustment required under this subsection and subject to subsection (6), if the department performs 1 or more of the tests required under subsection (1), the department may charge a fee for the tests of not more than $53.71. The department shall adjust the amount prescribed by this subsection annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(5) A person who violates this section or a rule promulgated under this part is guilty of a misdemeanor.

(6) The department shall provide for a hardship waiver of the fee authorized under subsection (4) under circumstances found appropriate by the department.

(7) The department shall do all of the following in regard to the blood specimens taken for purposes of conducting the tests required under subsection (1):

(a) By April 1, 2000, develop a schedule for the retention and disposal of the blood specimens used for the tests after the tests are completed. The schedule shall meet at least all of the following requirements:

(*i*) Be consistent with nationally recognized standards for laboratory accreditation and federal law.

(*ii*) Require that the disposal be conducted in compliance with section 13811.

(*iii*) Require that the disposal be conducted in the presence of a witness. For purposes of this subparagraph, the witness may be an individual involved in the disposal or any other individual.

(*iv*) Require that a written record of the disposal be made and kept, and that the witness required under subparagraph (*iii*) signs the record.

(b) Allow the blood specimens to be used for medical research during the retention period established

under subdivision (a), as long as the medical research is conducted in a manner that preserves the confidentiality of the test subjects and is consistent to protect human subjects from research risks under subpart A of part 46 of subchapter A of title 45 of the code of federal regulations.

(8) The department shall rewrite its pamphlet explaining the requirements of this section when the supply of pamphlets in existence on March 15, 2000 is exhausted. When the department rewrites the explanatory pamphlet, it shall include at least all of the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1).

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (9) in a safe place.

(c) The department's schedule for retaining and disposing of blood specimens developed under subsection (7)(a).

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) may be used for medical research pursuant to subsection (7)(b).

(9) In addition to the requirements of subsection (1), the health professional described in subsection (1) or the hospital or other facility in which the birth of an infant takes place, or both, may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1). If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques, including, but not limited to, lamination. The health professional or hospital or other facility employee making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The health professional or hospital or other facility making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 300, Eff. Mar. 31, 1987;—Am. 1987, Act 14, Imd. Eff. Apr. 14, 1987;—Am. 1988, Act 264, Imd. Eff. July 15, 1988;—Am. 1992, Act 81, Imd. Eff. June 2, 1992;—Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 1999, Act 138, Imd. Eff. Oct. 5, 1999;—Am. 2000, Act 33, Imd. Eff. Mar. 15, 2000;—Am. 2002, Act 691, Eff. Apr. 1, 2003.

Popular name: Act 368

Administrative rules: R 325.1471 et seq. of the Michigan Administrative Code.

333.5432 Hearing test and screening.

Sec. 5432. If a health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant, the hospital, the health department, or other facility administers or causes to be administered to the infant a hearing test and screening, then that person or facility shall report to the department, on a form as prescribed by the department, the results of all hearing tests and screens conducted on infants who are less than 12 months of age and on children who have been diagnosed with hearing loss and are less than 3 years of age. The report shall include the type, degree, and symmetry of the diagnosis, along with where and when the diagnosis was made.

History: Add. 2006, Act 31, Imd. Eff. Feb. 23, 2006.

333.5439 Rules.

Sec. 5439. The department may promulgate rules to implement this part including rules designating additional chronic diseases and the time and conditions under which tests required by section 5431 shall be administered.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

Administrative rules: R 325.1471 et seq. of the Michigan Administrative Code.

PART 54A
LEAD ABATEMENT

333.5451 Short title of part.

Sec. 5451. This part shall be known and may be cited as the "lead abatement act".

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5452 Words and phrases; meanings.

Sec. 5452. For purposes of this part, the words and phrases defined in sections 5453 to 5460 have the meanings ascribed to them unless the context requires otherwise.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5453 Definitions; A.

Sec. 5453. (1) "Abatement", except as otherwise provided in subsection (2), means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(b) A project for which there is a written contract or other documentation that provides that a person will be conducting activities in or to a residential dwelling or child occupied facility that will result in the permanent elimination of lead-based paint hazards or that are designed to permanently eliminate lead-based paint hazards.

(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

(2) Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation, and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

(d) The scraping or removal of paint, painting over paint, or other similar activity that may incidentally result in a reduction or elimination of a lead-based paint hazard, if the activity meets all of the following:

(*i*) The activity is performed only on residential or multifamily dwellings containing 4 or fewer units.

(*ii*) The activity is coordinated by a nonprofit charitable or volunteer organization that meets all of the following:

(A) Is in compliance with the procedures established under subpart J of part 35 of title 24 of the code of federal regulations, 24 CFR 35.900 to 35.940.

(B) Has written guidelines in place to ensure safe work practices to protect residents and volunteers from hazards including, but not limited to, lead exposure and asbestos exposure.

(C) In writing, discloses to the owner of the residential or multifamily dwelling all of the following:

(I) The presence of any known lead-based paint and lead-based paint hazards.

(II) Information regarding the lead safe housing registry maintained by the department under section 5474b.

(III) Information regarding the owner's obligations under the federal lead-based paint or lead-based paint hazard disclosure rule under subpart F of part 745 of title 40 of the code of federal regulations, 40 CFR 745.100 to 745.119.

(D) Notifies the department that the residential or multifamily dwelling may be required to be on the lead safe housing registry maintained by the department.

(*iii*) The activity is performed only by unpaid volunteers and the organization receives no remuneration directly from the owner or occupant of the residential dwelling or multifamily dwelling.

(*iv*) The activity does not involve the use of a lead-based paint encapsulating product that requires certification from the department.

(*v*) The activity does not involve the use of high-pressure water or compressed air cleaning equipment on, the dry sanding of, or the scraping of, asbestos siding prior to painting.

(3) "Accredited training program" means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

(4) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002;—Am. 2008, Act 45, Imd. Eff. Mar. 27, 2008.

Popular name: Act 368

333.5454 Definitions; C.

Sec. 5454. (1) "Certified abatement worker" means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

(2) "Certified clearance technician" means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

(3) "Certified firm" means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

(4) "Certified inspector" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(5) "Certified project designer" means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

(6) "Certified risk assessor" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(7) "Certified supervisor" means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

(8) "Child occupied facility" means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day's visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5455 Definitions; C.

Sec. 5455. (1) "Clearance levels" means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement as listed in rules promulgated by the department.

(2) "Clearance professional" means 1 or more of the following individuals when performing clearance testing:

(a) A certified inspector.

(b) A certified risk assessor.

(c) A certified clearance technician.

(3) "Common area" means a portion of a building that is generally accessible to all occupants of the building. Common area includes, but is not limited to, a hallway, a stairway, a laundry and recreational room, a playground, a community center, a garage, and a boundary fence.

(4) "Component" or "building component" means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component, includes but is not limited to, a specific interior or exterior design or structural element or fixture.

(5) "Containment" means a process to protect workers and the environment by controlling exposure to a dust lead hazard and debris created during an abatement.

(6) "Course agenda" means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

(7) "Course test" means an evaluation of the overall effectiveness of the accredited training program by

testing a trainee's knowledge and retention of the topics covered during the accredited training program.

(8) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the accredited training program curriculum.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5456 Definitions; D, E.

Sec. 5456. (1) "Department" means the department of community health.

(2) "Deteriorated paint" means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

(3) "Discipline" means 1 of the specific types or categories of lead-based paint activities identified in this part for which an individual may receive training from an accredited training program and become certified by the department.

(4) "Distinct painting history" means the application history, as indicated by its visual appearance or a record of application, over time of paint or other surface coatings to a component or room.

(5) "Documented methodology" means a method or protocol used to do either or both of the following:

(a) Sample and test for the presence of lead in paint, dust, and soil.

(b) Perform related work practices as described in rules promulgated under this part.

(6) "Dust lead hazard" means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

(7) "Elevated blood level" or "EBL" means for purposes of lead abatement an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

(8) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

(9) "Encapsulation" means the application of an encapsulant.

(10) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(11) "EPA" means the United States environmental protection agency.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Compiler's note: For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Popular name: Act 368

333.5457 Definitions; G to I.

Sec. 5457. (1) "Guest instructor" means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

(2) "Hands-on skills assessment" means an evaluation that tests a trainee's ability to satisfactorily perform the work practices, work procedures, or any other skill taught in an accredited training program.

(3) "Hazardous waste" means waste as defined in 40 C.F.R. 261.3.

(4) "Inspection" means a surface-by-surface investigation in target housing or a child occupied facility to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(5) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5458 Definitions; L.

Sec. 5458. (1) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

(2) "Lead-based paint activity" means inspection, risk assessment, and abatement in target housing and child occupied facilities or in any part thereof.

(3) "Lead-based paint hazard" means any of the following conditions:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deterioriated lead-based paint in or on any residential building or child occupied facility.

(e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.

(f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

(4) "Lead-based paint investigation" means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

(5) "Living area" means an area of a residential dwelling used by 1 or more children age 6 and under including, but not limited to, a living room, kitchen area, den, playroom, and a children's bedroom.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5459 Definitions; M to S.

Sec. 5459. (1) "Multifamily dwelling" means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(2) "Paint in poor condition" means 1 or more of the following:

(a) More than 10 square feet of deteriorated paint on an exterior component with a large surface area.

(b) More than 2 square feet of deteriorated paint on an interior component with large surface areas.

(c) More than 10% of the total surface area of the component is deteriorated on an interior or exterior component with a small surface area.

(3) "Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete but not including grass, mulch, or other landscaping materials.

(4) "Person" means that term as defined in section 1106 but including the state and a political subdivision of the state.

(5) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

(6) "Recognized laboratory" means an environmental laboratory recognized by the EPA pursuant to section 405 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(7) "Reduction" means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard through methods including, but not limited to, interim controls and abatement.

(8) "Residential dwelling" means either of the following:

(a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.

(b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(9) "Risk assessment" means both of the following:

(a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.

(b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

(10) "Soil lead hazard" means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5460 Definitions; T to V.

Sec. 5460. (1) "Target housing" means housing constructed before 1978, except any of the following:

(a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.

(b) A 0-bedroom dwelling.

(c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

(2) "Third party examination" means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

(3) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(4) "Training hour" means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience or a combination of those activities.

(5) "Training manager" means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

(6) "Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child occupied facility following an abatement designed to determine whether the abatement has been successfully completed.

(7) "Visual inspection for risk assessment" means the visual examination of a residential dwelling or a child occupied facility to determine the existence of deteriorated paint or other potential sources of lead-based paint hazards.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5460a Lead-based paint activities; procedures and requirements.

Sec. 5460a. (1) This part contains procedures and requirements for the accreditation of lead-based paint activities training programs, procedures and requirements for the certification of individuals and other persons engaged in lead-based paint activities, and work practice standards for performing lead-based paint activities as that term is defined in section 5458. This part requires that all lead-based paint activities be performed by certified individuals and persons, except for those circumstances and persons described in section 5453(2).

(2) This part does not apply to individuals and persons engaged in lead-based paint activities conducted within or on certain owner-occupied residential and multifamily dwellings as further described in section 5453(2) except in certain dwellings in which a residing child is identified as having an elevated blood lead level.

(3) This part does not require the owner or occupant to undertake any lead-based paint activities.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5461 Persons engaged in lead-based paint activity; certification required.

Sec. 5461. (1) A person shall not engage or offer to engage in a lead-based paint activity unless certified in the appropriate discipline under this part. A person conducting a lead-based paint activity shall comply with the standards for performing lead-based paint activities contained in this part and the rules promulgated under this part.

(2) The department shall certify a person applying for certification under this part if that person demonstrates to the department that he or she is licensed, certified, or registered in another state and the standards for obtaining that license, certification, or registration are substantially similar to those imposed under this part.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5461a Lead-based paint activities; training program; accreditation required.

Sec. 5461a. (1) A person shall not provide or offer to provide a training program for lead-based paint activities unless the training program is accredited under the appropriate discipline under this part. A person

providing an accredited training program shall comply with the standards for accreditation and training certification prescribed in this part and the rules promulgated under this part.

(2) The department shall accredit a training program if the training program is registered by the department under the department's voluntary registration program by August 30, 1998 if the training program submits an application under section 5462.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5462 Lead-based paint activities; training program; accreditation generally.

Sec. 5462. (1) A person may seek accreditation for a training program to offer courses in lead-based paint activities in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker/laborer.

(f) Clearance technician.

(2) A person may also seek accreditation for a training program to offer refresher courses for each of the disciplines described in subsection (1).

(3) A person shall not provide, offer, or claim to provide EPA-accredited courses in lead-based paint activities without applying for and receiving accreditation from the department under this part.

(4) A person seeking accreditation for a training program shall submit a written application to the department containing all of the following:

(a) If the applicant is a sole proprietorship or corporation, its "doing business as" or corporate identification number.

(b) The fee required by section 5471.

(c) The name of each principal position, partner, shareholder, member, or owner.

(d) The training program's proposed name, address, and telephone number.

(e) A list of courses and disciplines for which it is seeking accreditation.

(f) A statement signed by the training program manager certifying that the training program meets the requirements established by this part and the rules promulgated under this part.

(g) A copy of the student and instructor manuals or other materials to be used for each course.

(h) A copy of the course agenda for each course.

(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(j) A copy of the course test blueprint for each course.

(k) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course.

(*l*) A copy of the quality control plan as defined in rules promulgated by the department.

(5) The department shall approve an application for accreditation of a training program within 180 days after receiving a complete application from the training program if the department determines that the applicant meets the requirements of this part and the rules promulgated under this part. In the case of approval, the department shall send a certificate of accreditation to the applicant. Before disapproving an application, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the training program does not meet the requirements of this part or the rules promulgated under this part, or both. The department may request additional information or materials from the training program under this section. If the department disapproves a training program's application for accreditation, the applicant may reapply for accreditation at any time.

(6) A training program shall meet all of the following requirements in order to become accredited to offer courses in lead-based paint activities:

(a) Employ a training manager who has training, education, and experience as described in rules promulgated by the department.

(b) Provide that the training manager described in subdivision (a) designate a qualified principal instructor for each course who has training, education, and experience as described in rules promulgated by the department.

(c) Provide that the principal instructor described in subdivision (b) be responsible for the organization of the course and oversight of the teaching of all course material. A training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice

components of a course.

(7) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in rules promulgated by the department, which documentation is not required to be submitted with the accreditation application but, if not submitted, must be retained by the training program as required by the record-keeping requirements contained in this part:

(a) An official academic transcript or diploma as evidence of meeting the education requirements.

(b) A resume, letter of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) A certificate from a train-the-trainer course or a lead-specific training course, or both, as evidence of meeting the training requirements.

(8) A training program accredited under this part shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5463 Training program; training hour requirements for accreditation in certain disciplines; rules; course test; hands-on skills assessment; course completion certificates; quality control plan; teaching work practice standards; duties of training manager.

Sec. 5463. (1) A training program accredited under section 5462 shall provide training courses that meet the following training hour requirements in order to become accredited in the following disciplines:

(a) An inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the inspector course.

(b) A risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the risk assessor course.

(c) A supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The department shall promulgate rules to determine the minimum curriculum requirements for the supervisor course.

(d) A project designer course shall last a minimum of 8 training hours. The department shall promulgate rules to determine the minimum curriculum requirements for the project designer course.

(e) An abatement worker course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the abatement worker course.

(f) A clearance technician course shall last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the clearance technician course. Until rules are promulgated, a clearance technician course shall use the curriculum for the lead sampling technician course approved by the EPA under subpart Q of part 745 of title 40 of the code of federal regulations.

(2) The department may promulgate rules to modify 1 or more of the requirements imposed under subsection (1) if changes are needed to comply with federal mandates or for another reason considered appropriate by the department.

(3) For each course offered, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program must successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test in order to pass a course.

(4) The training manager shall maintain the validity and integrity of a hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in rules promulgated under this section and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(5) A training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(6) A training program shall issue course completion certificates to each individual who passes the training course. The course completion certificates shall include:

(a) The name and address of the individual, along with a unique identification number.

(b) The name of the particular course that the individual passed.

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate.

(e) The name, address, and telephone number of the training program.

(7) The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training program. The quality control plan shall contain at least both of the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of each principal instructor's competence.

(8) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities and other standards developed by the EPA pursuant to title IV of the toxic substances control act and considered appropriate or necessary by the department. The work practice standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities.

(9) The training manager shall ensure that the training program complies at all times with all of the requirements of this section and the rules promulgated under this section.

(10) The training manager shall allow the department to audit the training program to verify the contents of the application for accreditation.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5464 Accreditation of refresher course.

Sec. 5464. (1) A training program may seek accreditation to offer refresher training courses in 1 or more of the disciplines described in section 5462(1). A training program shall meet those minimum requirements contained in rules promulgated by the department in order to obtain department accreditation.

(2) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course pursuant to rules promulgated by the department.

(3) The department shall approve an application for accreditation of a refresher course within 180 days after receiving a complete application. Upon approval, the department shall send a certificate of accreditation to the applicant. Before disapproval, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the continuing education course does not meet the requirements of this part and the rules promulgated under this part, or both. The department may also request additional information or materials retained by the training program. If the department denies a training program's application for accreditation of a refresher course, the applicant may reapply for accreditation at any time.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5465 Reaccreditation of training program.

Sec. 5465. (1) Unless reaccredited, a training program's accreditation under section 5462, including refresher course training accredited under section 5464, expires 1 year after the date of issuance.

(2) A training program seeking reaccreditation shall submit an application to the department no later than 45 days before its accreditation expires.

(3) A training program's application for reaccreditation shall include any fees and information required pursuant to rules promulgated by the department.

(4) Upon request, a training program shall allow the department to audit the training program to verify the contents of the application for reaccreditation.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5466 Suspension, revocation, or modification of accreditation.

Sec. 5466. (1) The department may, after notice and an opportunity for hearing pursuant to the

administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, suspend, revoke, or modify a training program accreditation or a refresher course training program accreditation if the department determines that a training program, training manager, or other person with supervisory authority over the training program has done 1 or more of the following:

(a) Misrepresented the contents of a training course to the department or the trainees enrolled in the training program, or both.

(b) Failed to submit required information or notifications in a timely manner.

(c) Failed to maintain required records.

(d) Falsified accreditation records, student certificates, instructor qualifications, or other accreditation-related information or documentation.

(e) Failed to comply with the training standards and requirements of this part and the rules promulgated under this part.

(f) Failed to comply with a federal, state, or local statute, rule, or regulation involving lead-based paint activities.

(g) Made false or misleading statements to the department in its application for accreditation or reaccreditation that the department relied upon in approving the application.

(2) In addition to an administrative or judicial finding of a violation, the execution of a consent agreement in settlement of an enforcement action is considered, for purposes of this section, evidence of a failure to comply with the standards and requirements of this part and the rules promulgated under this part or other relevant statutes or regulations involving lead-based paint activities.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5467 Accreditation training program; availability and retention of records; notice of change of address.

Sec. 5467. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

(a) Each document that demonstrates the qualifications of a training manager or a principal instructor.

(b) Current curriculum and course materials and documents reflecting changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on skills assessment is conducted including, but not limited to, all of the following:

(*i*) The person conducting the hands-on skills assessment.

(*ii*) The method of grading the hands-on skills.

(*iii*) A description of the facilities used.

(*iv*) The pass/fail rate.

(e) The quality control plan.

(f) The results of the students' hands-on skills assessments and course tests and a record of each student's participation, including name, social security number, and score, within 10 calendar days of the last day of the course taken.

(g) Any other material that was submitted to the department as part of the program's application for accreditation.

(2) A training program shall retain the records described in subsection (1) for at least 3-1/2 years at the address specified on the training program accreditation application.

(3) The training program shall notify the department in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5468 Certification to engage in lead-based paint activities; fees; application; requirements for certification in specific discipline.

Sec. 5468. (1) An individual seeking certification by the department to engage in lead-based paint activities shall pay the appropriate fees required under section 5471 and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of this part and the rules promulgated under this part for the particular discipline for which certification is sought.

(b) A copy of a valid lead-based paint activities certification or its equivalent, as determined by the department, from a training program that has been authorized by the EPA pursuant to 40 C.F.R. part 745 along with proof of the applicant's third party examination results.

(2) Following the submission of an application demonstrating that the requirements of this part and the rules promulgated under this part have been met, the department shall certify an applicant in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker.

(f) Clearance technician.

(3) Upon receiving the department certification in 1 or more of the disciplines described in subsection (2), an individual conducting lead-based paint activities shall comply with the work practice standards for performing that discipline as established under this part and the rules promulgated under this part.

(4) An individual shall not conduct a lead-based paint activity unless that individual is certified by the department under this section in the appropriate discipline.

(5) An individual shall do all of the following in order to become certified by the department as an inspector, risk assessor, abatement worker, or supervisor:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the third party exam in the appropriate discipline.

(c) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(6) After an individual passes the appropriate certification exam and submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements and passes the appropriate certification exam, the department shall issue a certificate to the individual in the specific discipline for which certification is sought. To maintain certification, an individual must be recertified pursuant to this part.

(7) An individual shall pass the third party exam within 6 months after receiving a course completion certificate in order to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate. An individual who does not pass the third party exam after 3 attempts shall repeat the appropriate course from an accredited training program in order to be eligible to retake the exam.

(8) An individual shall do both of the following in order to become certified by the department as a project designer:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(9) After an individual has successfully completed the appropriate training courses, applied to the department, and met the requirements of this part and the rules promulgated under this part, the department shall issue a certificate to the individual in the discipline of project designer. To maintain certification, the individual must be periodically recertified pursuant to this part.

(10) An individual who received training in a lead-based paint activity between October 1, 1990 and March 1, 1999 and an individual who has received lead-based paint activities training at an EPA-authorized accredited training program are eligible for certification by the department under rules promulgated by the department.

(11) In order to maintain certification in a particular discipline, a certified individual shall apply to and be recertified in that discipline by the department every 3 years.

(12) An individual shall do both of the following in order to become a certified clearance technician:

(a) Successfully complete an approved course for the discipline of clearance technician and receive a course completion certificate.

(b) Pass the third party exam for the discipline of clearance technician.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5469 Certification to engage in lead-based paint activities; employment of certified employees; requirements.

Sec. 5469. (1) Beginning August 30, 1999, a person shall not perform or offer to perform lead-based paint activities without obtaining certification by the department under this part.

(2) A person seeking certification under subsection (1) shall submit to the department a letter attesting that the person shall only employ appropriately certified employees to conduct lead-based paint activities and that the person and its employees shall follow the work practice standards for conducting lead-based paint activities as established in rules promulgated by the department.

(3) A person seeking certification under subsection (1) shall do all of the following:

(a) Complete the application and pay the appropriate fee accompanied by a corporate identification number, certificate of sole proprietorship, or other business entity documentation acceptable to the department.

(b) Indicate whether the applicant has liability insurance.

(c) Submit proof of Michigan workers' disability compensation insurance.

(d) Submit proof that each employee or agent involved in lead-based paint activities has received training and certification as required by this part.

(e) If applicable, submit the name of each principal partner, shareholder, member, or owner.

(4) Not more than 90 days from the date of receipt of the person's completed application, the department shall approve or disapprove the person's request for certification. Within that time period, the department shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(5) A person certified by the department under this section shall maintain all records pursuant to the requirements imposed in rules promulgated by the department.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5470 Certification in appropriate discipline required.

Sec. 5470. Beginning on March 1, 1999, all lead-based paint activities shall be performed by an individual certified in the appropriate discipline under this part and pursuant to the work practice standards prescribed in rules promulgated by the department.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5471 Training program or refresher courses; fees.

Sec. 5471. (1) Subject to subsection (7), fees for a person accredited or seeking accreditation for a training program offering courses or refresher courses in lead-based paint abatement are as follows:

(a)	Initial application processing fee	$ 100.00.
(b)	Initial accreditation fee	$475.00 per discipline.
(c)	Reaccreditation fee, annual	$265.00 per discipline.

(2) Fees for an individual certified or seeking certification to engage in lead-based paint abatement are as follows:

(a)	Initial application processing fee	$ 25.00.
(b)	Certification fee, per year:	
(*i*)	Inspector	$ 150.00.
(*ii*)	Risk assessor	$ 150.00.
(*iii*)	Supervisor	$ 50.00.
(*iv*)	Project designer	$ 150.00.
(*v*)	Abatement worker/laborer	$ 25.00.
(*vi*)	Clearance technician	$ 50.00.

(3) Fees for a person certified or seeking certification to engage in lead-based paint abatement are as follows:

(a)	Initial application processing fee	$ 100.00.
(b)	Certification fee, per year	$ 220.00.

(4) If the department increases fees under subsection (5), the increase shall be effective for that fiscal year.

The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(5) By August 1 of each year, the department shall provide to the director of the department of management and budget and to the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under this section.

(6) The fees imposed under this part shall not exceed the actual cost of administering this part.

(7) The department may waive the fees for an accredited training program for a person who has demonstrated that no part of its net earnings benefit any private shareholder or individual.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5472 Notice of lead-based paint abatement.

Sec. 5472. Before beginning a lead-based paint abatement, a person conducting lead-based paint abatement shall notify the department, on forms provided by the department or through electronic methods approved by the department, regarding information the department considers necessary in order to conduct an unannounced site inspection. The person shall send notification not less than 3 business days before commencing the lead-based paint abatement.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

333.5473 Administration and enforcement of part.

Sec. 5473. The legislature shall annually appropriate to the department an amount sufficient to administer and enforce this part. These funds shall be offset by funds received from federal agencies in the form of grants or other funding provisions. All funds generated by this part shall be deposited into the general fund to be used exclusively by the department to carry out the duties and responsibilities of this part. With fees collected pursuant to this part and funds appropriated by the legislature, the department shall conduct compliance activities that assure the quality of training and protection of worker's and public health and safety. Such activities include, but are not limited to, unannounced inspections of lead abatement project sites.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5473a Administration and enforcement of part by department; rules; establishment of programs; recommendations; disclosure; exemption.

Sec. 5473a. (1) The department shall administer this part and promulgate rules as may be necessary for the administration and enforcement of this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall authorize, coordinate, and conduct programs to educate persons including, but not limited to, homeowners and remodelers of lead hazards associated with remodeling target housing and methods of lead-hazard reduction activities.

(3) The department shall establish a program that provides an opportunity for property owners, managers, and maintenance staff to learn about lead-safe practices and the avoidance of creating lead-based paint hazards during minor painting, repair, or renovation.

(4) Not later than January 1, 2000, the department shall recommend appropriate maintenance practices for owners of residential property, day care facilities, and secured lenders that are designed to prevent lead poisoning among children 6 years of age or less and pregnant women. In making its recommendations, the department shall consult with affected stakeholders and shall consider the effects of those maintenance practices on the availability and affordability of housing and credit.

(5) The following information required to be submitted to the department by certified individuals and persons under this part and rules promulgated under this part is exempt from disclosure as a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The name, street address, and telephone number of the owner, agent, or tenant of a residential dwelling where lead-based paint investigations have been conducted.

(b) Information that could be used to identify 1 or more children with elevated blood lead levels that have been reported to the department.

(c) Information contained in an EBL investigation report that could be used to identify 1 or more children with elevated blood lead levels.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5474 Establishment of lead poisoning prevention program; components; reports.

Sec. 5474. (1) The department shall establish a lead poisoning prevention program that has the following components:

(a) A coordinated and comprehensive plan to prevent childhood lead poisoning and to minimize exposure of the general public to lead-based paint hazards.

(b) A comprehensive educational and community outreach program regarding lead poisoning prevention that shall, at a minimum, include the development of appropriate educational materials targeted to health care providers, child care providers, public schools, owners and tenants of residential dwellings, and parents of young children. These educational materials shall be made available, upon request, to local and state community groups, legal services organizations, and tenants' groups.

(c) A technical assistance system for health care providers to assist those providers in managing cases of childhood lead poisoning. As part of this system, the department shall require that results of all blood lead level tests conducted in Michigan be reported to the department as provided for in rule and that when the department receives notice of blood lead levels above 10 micrograms per deciliter, it shall initiate contact with the local public health department or the physician, or both, of the child whose blood lead level exceeds 10 micrograms per deciliter.

(2) The department shall report to the legislature by January 1, 1999, and annually thereafter, the number of children through age 6 who were screened for lead poisoning during the preceding fiscal year and who were confirmed to have had blood lead levels above 10 micrograms per deciliter. The report shall compare these rates with those of previous fiscal years and the department shall recommend methods for improving compliance with guidelines issued by the federal centers for disease control and prevention, including any necessary legislation or appropriations.

(3) Not more than 1 year after the effective date of this part, and annually thereafter, the department shall prepare a written report regarding the expenditures under the lead poisoning prevention program including the amounts and sources of money from the previous year and a complete accounting of its use. The report shall be given to the appropriate committees of the legislature and be made available to the general public upon request.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

Popular name: Act 368

333.5474a Repealed. 2004, Act 431, Eff. July 1, 2007.

Compiler's note: The repealed section pertained to the childhood lead poisoning prevention and control commission.

Popular name: Act 368

333.5474b Lead safe housing registry.

Sec. 5474b. (1) The department in cooperation with the family independence agency and the Michigan state housing development authority shall establish and maintain a registry, to be known as the "lead safe housing registry", to provide the public with a listing of residential and multifamily dwellings and child occupied facilities that have been abated of or have had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part.

(2) The owner of target housing that is offered for rent or lease as a residence or the owner of a child occupied facility shall register that property with the department if that property has been abated of or has had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part in a form as prescribed by the department free of charge. The form shall include, at a minimum, the following:

(a) Name of the owner of the building.

(b) Address of the building.

(c) Date of construction.

(d) Date and description of any lead-based paint activity including the name of the certified abatement worker or the certified risk assessor certified under this part who performed the abatement or conducted the inspection, lead-hazard screen, assessment, or clearance testing of the building and the results of the lead-based paint activity.

(3) An owner required to register his or her property under subsection (2) shall provide the department with a copy of each report, document, or other information that is required to be filed with the federal

government under federal law and regulations related to lead-based paint.

(4) The owner of any other residential or multifamily dwelling that is offered for rent or lease as a residence or the owner of a child occupied facility may register that property with the department and the department shall include that property on the lead safe housing registry. A person who wishes to register under this subsection shall execute and return the registration form to the department with payment of the registration fee in an amount as prescribed by the department.

(5) The department shall publish the lead safe housing registry on its website and provide a copy of the registry to a person upon request. The department may charge a reasonable, cost-based fee for providing copies of the lead safe housing registry under this subsection.

History: Add. 2004, Act 432, Imd. Eff. Dec. 21, 2004.

Popular name: Act 368

333.5474b[1] Lead safe housing registry.

Sec. 5474b. (1) The department in cooperation with the family independence agency and the Michigan state housing development authority shall establish and maintain a registry, to be known as the "lead safe housing registry", to provide the public with a listing of residential and multifamily dwellings and child occupied facilities that have been abated of or have had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part.

(2) The owner of target housing that is offered for rent or lease as a residence or the owner of a child occupied facility shall register that property with the department if that property has been abated of or has had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part in a form as prescribed by the department free of charge. The form shall include, at a minimum, the following:

(a) Name of the owner of the building.

(b) Address of the building.

(c) Date of construction.

(d) Date and description of any lead-based paint activity including the name of the certified abatement worker or the certified risk assessor certified under this part who performed the abatement or conducted the inspection, lead-hazard screen, assessment, or clearance testing of the building and the results of the lead-based paint activity.

(3) An owner required to register his or her property under subsection (2) shall provide the department with a copy of each report, document, or other information that is required to be filed with the federal government under federal law and regulations related to lead-based paint.

(4) The owner of any other residential or multifamily dwelling that is offered for rent or lease as a residence or the owner of a child occupied facility may register that property with the department and the department shall include that property on the lead safe housing registry. A person who wishes to register under this subsection shall execute and return the registration form to the department with payment of the registration fee in an amount as prescribed by the department.

(5) The department shall publish the lead safe housing registry on its website and provide a copy of the registry to a person upon request. The department may charge a reasonable, cost-based fee for providing copies of the lead safe housing registry under this subsection.

History: Add. 2004, Act 433, Imd. Eff. Dec. 21, 2004.

Compiler's note: This added section is compiled as MCL 333.5474b[1] to distinguish it from another Sec. 5474b deriving from Act 432 of 2004.

Popular name: Act 368

333.5474c Repealed. 2004, Act 400, Eff. July 1, 2007.

Compiler's note: The repealed section pertained to report findings of environmental threats of lead poisoning to children.

Popular name: Act 368

333.5474c[1] Lead Poisoning Prevention Week.

Sec. 5474c. (1) The legislature recognizes the imminent threats posed to children's health and cognitive development from ingestion of lead paint dust in residential neighborhoods, the broad dispersal of lead-laden soils from historical airborne deposition of leaded fuel emissions, and identified specific facilities that present known or potential lead hazards. The legislature further recognizes the need to educate the citizens of this state regarding those threats.

(2) The legislature declares that October 23 through October 29, 2005 shall be known as the "Lead

Poisoning Prevention Week" and for each year thereafter the period beginning on the fourth Sunday of October through the following Saturday shall be known as the "Lead Poisoning Prevention Week".

History: Add. 2004, Act 433, Imd. Eff. Dec. 21, 2004.

Compiler's note: This added section is compiled as MCL 333.5474c[1] to distinguish it from another Sec. 5474c deriving from Act 400 of 2004.

Popular name: Act 368

333.5474d Testing of minors for lead poisoning; rules; exception.

Sec. 5474d. (1) Beginning January 1, 2024, a physician treating a patient who is a minor shall do both of the following:

(a) Test the minor for lead poisoning, or order the test for the minor, at the intervals and using the methods specified by the department by rule.

(b) If the physician performs the test described in subdivision (a), make an entry of the testing on the minor's certificate of immunization.

(2) The department shall promulgate rules to implement this section. The rules must include, but are not limited to, all of the following:

(a) Subject to subsection (3), a requirement that a minor residing in this state is tested at the following ages:

(*i*) 12 months of age and 24 months of age.

(*ii*) If the minor has no previous record of the test required under this section, between 24 months of age and 72 months of age.

(b) The identification of geographic areas in this state that pose a high risk for childhood lead poisoning and a requirement that a minor who is 4 years of age be tested if the minor resides in an area described in this subdivision.

(c) Factors to identify a minor who is at high risk for lead poisoning. The factors must include, but are not limited to, residing in a home where other minors have been diagnosed with lead poisoning and residing in a home that was built before 1978.

(d) A requirement that a minor is tested at intervals determined by the department if a physician determines that the minor is at high risk for lead poisoning by applying the factors described in subdivision (c), through a parent's attestation, or through the physician's own independent medical judgment.

(e) Procedures for entering the information described in subsection (1)(b) on the minor's certificate of immunization, including, but not limited to, procedures for entering the information if the testing is performed by a person other than a physician.

(3) The department may, by rule, adjust the age requirements described in subsection (2)(a) or eliminate the testing requirement in subsection (2)(a) if, after collecting and reviewing data on lead poisoning in this state for 5 years, the department determines that testing minors at the ages described in subsection (2)(a) is no longer necessary or appropriate to maintain the health and safety of minors who reside in this state. If the department adjusts the ages or eliminates the requirement described in subsection (2)(a) under this subsection, the department shall submit a report to the legislature detailing the department's rationale.

(4) This section does not apply to a minor whose parent, guardian, or person in loco parentis objects to testing.

(5) As used in this section, "certificate of immunization" means the certificate described in section 9206.

History: Add. 2023, Act 146, Imd. Eff. Oct. 3, 2023.

Popular name: Act 368

333.5475 Alleged violations or complaints; actions by department.

Sec. 5475. (1) The department shall receive or initiate complaints of alleged violations of this part or rules promulgated under this part and take action with respect to alleged violations or complaints as prescribed by this part.

(2) The department, in its own discretion, or upon the written complaint of an aggrieved party or of a state agency or political subdivision of this state, may investigate the acts of an accredited training program, an individual or other person certified under this part, or a person allegedly engaged in lead-based paint activity. The department may deny, suspend, or revoke certification or accreditation issued under this part if a certified person, accredited training program, certified individual, or a person allegedly engaged in lead-based paint activity is found to be not in compliance with this part or the rules promulgated under this part. In addition, the department may deny, suspend, or revoke a certification or accreditation issued under this part for 1 or more of the following:

(a) Willful or negligent acts that cause a person to be exposed to a lead-containing substance in violation of

this part, the rules promulgated under this part, or other state or federal law pertaining to the public health and safety aspects of lead abatement.

(b) Falsification of records required under this part.

(c) Continued failure to obtain or renew certification or accreditation under this part.

(d) Deliberate misrepresentation of facts or information in applying for certification or accreditation under this part.

(e) Permitting a person who has not received the proper training and certification under this part or other applicable state or federal law to come in contact with lead or be responsible for a lead abatement project.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5475a Rental unit containing lead-based hazard; presumption of actual knowledge; violation; penalties; defense; burden of proof; definitions.

Sec. 5475a. (1) A property manager, housing commission, or owner of a rental unit who rents or continues to rent a residential housing unit to a family with a minor child who is found to have 10 micrograms or more of lead per deciliter of venous blood is subject to the penalties provided under subsection (3) if all of the following apply:

(a) The property manager, housing commission, or owner of the rental unit has prior actual knowledge that the rental unit contains a lead-based paint hazard.

(b) At least ninety days have passed since the property manager, housing commission, or owner of the rental unit had actual knowledge of the lead paint hazard.

(c) The property manager, housing commission, or owner of the rental unit has not acted in good faith to reduce the lead paint hazards through interim controls or abatement or a combination of interim controls and abatement.

(2) A property manager, housing commission, or owner of the rental unit is presumed to have prior actual knowledge that a unit contains a lead-based paint hazard only if 1 of the following applies:

(a) The property manager, housing commission, or owner of the rental unit signed an acknowledgment of the hazard as a result of a risk assessment under this chapter at the time the risk assessment was made.

(b) The property manager, housing commission, or owner of the rental unit was served as a result of a risk assessment under this chapter with notice of the hazard by first-class mail and a return receipt of that service was obtained.

(3) A property manager, housing commission, or owner of the rental unit convicted of violating this section is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the property manager, housing commission, or owner of the rental unit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $5,000.00, or both.

(b) If the property manager, housing commission, or owner of the rental unit was previously convicted of violating this section or a local ordinance substantially corresponding to this section, the property manager, housing commission, or owner of the rental unit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $10,000.00, or both.

(4) The property manager, housing commission, or owner of the rental unit may assert 1 or more of the following as an affirmative defense in a prosecution of violating this section, and has the burden of proof on that defense by a preponderance of the evidence:

(a) That the property manager, housing commission, or owner of the rental unit requested or contracted with a person having responsibility for maintaining the rental unit to reduce the hazard through interim controls or abatement and reasonably expected that the hazard would be reduced.

(b) That the tenant would not allow entry into or upon premises where the hazard is located or otherwise interfered with correcting the hazard.

(5) As used in this section:

(a) "Property manager" means a person who engages in property management as defined in section 2501 of the occupational code, 1980 PA 299, MCL 339.2501.

(b) "Lead-based paint hazard" means that term as defined in section 5458 of the public health code, 1978 PA 368, MCL 333.5458.

History: Add. 2004, Act 434, Eff. Jan. 2, 2005.

Popular name: Act 368

333.5476 Violation of part; fine; citation; administrative hearing.

Sec. 5476. (1) A person who violates this part or a rule promulgated under this part is subject to an administrative fine up to the following amounts for each violation or each day that a violation continues:

(a)	For a first violation	$	2,000.00.
(b)	For a second violation	$	5,000.00.
(c)	For a third or subsequent violation	$	10,000.00.

(2) If the department has reasonable cause to believe that a person has violated this part or a rule promulgated under this part, the department may issue a citation at that time or not later than 180 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation as provided for by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An alleged violator may request an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5477 Violation; failure to correct violation after notice as misdemeanor; sanctions, penalties, or other provisions.

Sec. 5477. (1) A person who engages in a lead-based paint activity as provided for by this part and who willfully or repeatedly violates this part or a rule promulgated under this part or a person who fails to correct the violation after notice from the department under this part is guilty of a misdemeanor, punishable by a fine of not more than $5,000.00, and upon conviction for a second or subsequent offense, not more than $10,000.00, or imprisonment for not more than 6 months, or both. A violation of this subsection may be prosecuted by either the attorney general or the prosecuting attorney of the judicial district in which the violation was committed.

(2) The application of sanctions under this part is cumulative and does not preclude the application of other sanctions or penalties contained in the provisions of any other federal, state, or political subdivision statute, rule, regulation, or ordinance.

(3) This part does not diminish the responsibilities of an owner or occupant, or the authority of enforcing agents under state, county, city, municipal, or other local building, housing, or health and safety codes.

(4) The requirements of this part are in addition to other pertinent provisions of a code listed in subsection (3).

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998;—Am. 2002, Act 644, Imd. Eff. Dec. 23, 2002.

Popular name: Act 368

Administrative rules: R 325.9901 et seq. of the Michigan Administrative Code.

333.5478, 333.5479 Repealed. 2007, Act 162, Eff. July 1, 2010.

Compiler's note: The repealed sections pertained to reinstatement and powers and duties of the childhood lead poisoning prevention and control commission.

Popular name: Act 368

PART 54B.
LEAD-BEARING SUBSTANCES

333.5481 Definitions.

Sec. 5481. As used in this part:

(a) "Children" means individuals who are 7 years old or younger.

(b) "Consumer" means that term as used in the consumer product safety act, 15 USC 2051 to 2085.

(c) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children, including, but not limited to, the following:

(*i*) Jewelry represented in its packaging, display, or advertising as appropriate for use by children.

(*ii*) Jewelry sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children.

(*iii*) Jewelry sized for children and not intended for use by adults.

(*iv*) Jewelry sold in a vending machine.

(*v*) Jewelry sold in a retail store, catalog, or online website in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(*vi*) Jewelry sold in a discrete portion of a retail store, catalog, or online website in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(d) "Lead-bearing substance" means an item or substance that contains lead, or a coating on an item that contains lead, so that the lead content is more than 0.06% of the total weight. Lead-bearing substance does not include glass or crystal decorative components.

(e) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5482 Children's jewelry; use or application of lead-bearing substance prohibited.

Sec. 5482. A person shall not use or apply a lead-bearing substance in or on any children's jewelry in this state.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5483 Children's jewelry containing lead-bearing substance; sale, offer for sale, or transfer prohibited.

Sec. 5483. A person shall not sell, offer for sale, or transfer to any person any children's jewelry in this state that contains a lead-bearing substance.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5484 Hazards of lead-bearing substances; posting information on website.

Sec. 5484. The department shall post on its website information about the hazards of lead-bearing substances and any programs it offers designed to educate individuals about those hazards.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5485 Lunch box containing lead-bearing substance; exception; "lunch box" defined.

Sec. 5485. (1) A person shall not sell or offer for sale in this state or for use in this state a lunch box that contains a lead-bearing substance.

(2) This section does not apply to the sale of a collectible lunch box or any other lunch box no longer intended to be used to carry food or drink for human consumption.

(3) As used in this section, "lunch box" means a fabricated container marketed or intended to be used to carry packaged or unpackaged food or drink for human consumption.

History: Add. 2007, Act 160, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5486 Violations; penalties; waiver.

Sec. 5486. (1) Except as otherwise provided in subsection (2), a person who violates this part is subject to the following:

(a) If the person is not an individual consumer and the violation is the person's first offense under this part, a civil fine of not more than $100.00 per item, not to exceed $5,000.00 total.

(b) If the person is not an individual consumer and the violation is the person's second offense under this part, a civil fine of not more than $500.00 per item, not to exceed $25,000.00 total.

(c) If the person is not an individual consumer and the violation is the person's third or subsequent offense under this part, a civil fine of not more than $1,000.00 per item, not to exceed $50,000.00 total.

(d) If a person knowingly violates this part and the person is not an individual consumer, a civil fine equal to 3 times the amounts in subdivision (c).

(2) A civil fine imposed under this section shall be waived if it is determined that a person acted in good faith to be in compliance with this part, pursued compliance with due diligence, and promptly corrected any noncompliance after discovery of the violation.

History: Add. 2007, Act 161, Eff. Mar. 20, 2008.

Popular name: Act 368

PART 54C.
TOXIC SUBSTANCES IN CHILDREN'S PRODUCTS

333.5491 Definitions.

Sec. 5491. As used in this part:

(a) "Child care article" means a product designed or intended by the manufacturer to facilitate the sleep, relaxation, or feeding of children or to help children with sucking or teething.

(b) "Children" means individuals who are 7 years old or younger.

(c) "Consumer" means that term as used in the consumer product safety act, 15 USC 2051 to 2085.

(d) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(e) "Toxic substance" means a substance that contains lead, or a coating on an item that contains lead, so that the lead content is more than 0.06% of the total weight. Toxic substance does not include glass or crystal decorative components.

(f) "Toy" means an article designed and made for the amusement of a minor or for the minor's use in play.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5492 Toxic substance in toy or child care article; prohibited conduct; exception.

Sec. 5492. (1) A person shall not use or apply a toxic substance in or on any toy or child care article in this state.

(2) A person shall not sell, offer for sale, or transfer a toy or child care article in this state that contains a toxic substance.

(3) This section does not apply to the sale of a collectible toy that is not marketed to or intended to be used by a minor.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

333.5493 Violation; penalties; waiver.

Sec. 5493. (1) Except as otherwise provided in subsection (2), a person who violates this part is subject to the following:

(a) If the person is not an individual consumer and the violation is the person's first offense under this part, a civil fine of not more than $100.00 per item not to exceed $5,000.00 total.

(b) If a person is not an individual consumer and the violation is the person's second offense under this part, a civil fine of not more than $500.00 per item not to exceed $25,000.00 total.

(c) If the person is not an individual consumer and the violation is the person's third or subsequent offense under this part, a civil fine of not more than $1,000.00 per item not to exceed $50,000.00 total.

(d) If a person knowingly violates this part and the person is not an individual consumer, a civil fine equal to 3 times the amounts in subdivision (c).

(2) A civil fine imposed under this section shall be waived if it is determined that a person acted in good faith to be in compliance with this part, pursued compliance with due diligence, and promptly corrected any noncompliance after discovery of the violation.

History: Add. 2007, Act 159, Eff. Mar. 20, 2008.

Popular name: Act 368

PART 55

333.5501 Repealed. 1988, Act 442, Eff. Dec. 27, 1991.

Compiler's note: The repealed section pertained to reports and records on Alzheimer's disease and related disorders.

Popular name: Act 368

333.5511 Alzheimer's disease or related disorder; state plan for network of regional, multidisciplinary diagnostic and assessment centers; submission to governor and legislature.

Sec. 5511. (1) The department shall develop, in consultation with the department of social services, the department of mental health, the office of services to the aging, and the office of health and medical affairs, a state plan for a network of regional, multidisciplinary diagnostic and assessment centers for individuals diagnosed or identified as having Alzheimer's disease or a related disorder. In developing the state plan, consideration shall be given to all of the following:

(a) A center shall be located so as to minimize transportation problems for patients and their families.

(b) A center shall be operated in conjunction with existing related services and programs.

(c) A center shall have the capacity to be reimbursed for the diagnostic and assessment process by

third-party payers, including, but not limited to, medicare and the state medical assistance program.

(d) Payment for services provided to individuals without sufficient health insurance coverage who have a limited income, but who are not eligible for the state medical assistance program.

(2) The state plan shall be completed and submitted to the governor and the legislature within 1 year after the effective date of this section.

History: Add. 1988, Act 443, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5521 Meanings of words and phrases used in MCL 333.5521 to 333.5539.

Sec. 5521. As used in sections 5521 to 5539:

(a) "Affected individual" means an individual diagnosed or identified as having Alzheimer's disease or a related disorder.

(b) "Autopsy" means a brain autopsy.

(c) "Family representative" means an affected individual's legal guardian, spouse, adult child, parent, or other family member.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5523 Identification of Alzheimer's disease and related disorders autopsy network; tasks.

Sec. 5523. The director shall identify an Alzheimer's disease and related disorders autopsy network. The network shall include individuals qualified to perform all of the following tasks:

(a) Provide information to, and obtain consent from, an affected individual or his or her family as provided in section 5529.

(b) Extract the necessary tissue.

(c) Preserve the tissue, prepare it for transport, and arrange for it to be transported.

(d) Examine the tissue and prepare a report on the results of the tissue examination.

(e) Provide the department and the family representative of the deceased with the results of the tissue examination.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5525 Identification of tissue repositories.

Sec. 5525. The department shall identify 1 or more tissue repositories for the receipt and storage of tissue of affected individuals who are deceased. The department may identify an existing public or private facility or institution that is equipped to provide for storage of the tissue.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5527 Tissue repository; access; collection and use of fees; report.

Sec. 5527. (1) A tissue repository identified under section 5525 shall allow equitable access to tissue to persons performing medical research and education, and may collect a reasonable fee for use of the tissue. Fees collected shall be used to fund the repository.

(2) A repository shall annually provide a report to the department on the collection and distribution of the tissue, and on the amount and use of the fees collected.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5529 Request for autopsy; information; written consent.

Sec. 5529. If an affected individual or his or her family representative requests an autopsy, a network representative shall provide to that person information concerning the cost, purposes, and benefits of an autopsy, and the benefits of using the tissue for medical research and education. The network representative shall also request that the affected individual or his or her family representative sign a written consent to the autopsy, and a separate written consent to use of the tissue for medical research and education.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5533 Duty of chronic disease advisory committee.

Sec. 5533. The chronic disease advisory committee shall oversee the implementation of sections 5523 to

5539.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5535 Subsidy program.

Sec. 5535. Within 1 year after the effective date of this section, the department shall develop and recommend to the legislature a subsidy program to help defray a portion of the cost to an affected individual or the affected individual's family of performing an autopsy.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5537 Information on critical role of autopsies.

Sec. 5537. The department shall provide to physicians, hospitals, nursing homes, medical examiners, funeral directors, affected individuals and their family members, and other appropriate persons written information describing the critical role that autopsies play in the diagnosis of, and in the conduct of research into the causes, treatment, and cure of, Alzheimer's disease and related disorders.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

333.5539 Authority of family representative.

Sec. 5539. The authority of a family representative to act as provided in this part is given first to the affected individual's legal guardian, and if none, then to his or her spouse, and if none, then to his or her adult child or children, and if none, then to his or her parent, and if none, then to other family members.

History: Add. 1988, Act 441, Imd. Eff. Dec. 27, 1988.

Popular name: Act 368

PART 55A
EYE CARE CONSUMER PROTECTION

333.5551 Eye care consumer protection law; meanings of words and phrases.

Sec. 5551. (1) This part may be referred to as the "eye care consumer protection law".

(2) As used in this part, the words and phrases defined in sections 5553 to 5557 have the meanings ascribed to them in those sections.

(3) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5553 Definitions; C to E.

Sec. 5553. (1) "Contact lens" means a lens placed directly on the surface of the eye, regardless of whether it is intended to correct a visual defect. Contact lens includes, but is not limited to, a cosmetic, therapeutic, or corrective lens.

(2) "Department" means the department of licensing and regulatory affairs.

(3) "Diagnostic contact lens" means a contact lens used to determine a proper contact lens fit.

(4) "Examination and evaluation", for the purpose of writing a valid prescription, means an assessment of the ocular health and visual status of a patient that does not consist solely of objective refractive data or information generated by an automated refracting device or other automated testing device.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5555 Definitions; L to S.

Sec. 5555. (1) "Licensee" means any of the following:

(a) A physician who is licensed or otherwise authorized to engage in the practice of medicine under part 170 and who specializes in eye care.

(b) A physician who is licensed or otherwise authorized to engage in the practice of osteopathic medicine and surgery under part 175 and who specializes in eye care.

(c) An optometrist who is licensed or otherwise authorized to engage in the practice of optometry under part 174.

(2) "Spectacles" means an optical instrument or device worn or used by an individual that has 1 or more lenses designed to correct or enhance vision to address the visual needs of the individual wearer and commonly known as glasses, including spectacles that may be adjusted by the wearer to achieve different

types or levels of visual correction or enhancement.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5557 Definitions; V.

Sec. 5557. "Valid prescription" means 1 of the following, as applicable:

(a) For a contact lens, a written or electronic order by a licensee who has conducted an examination and evaluation of a patient and has determined a satisfactory fit for the contact lens based on an analysis of the physiological compatibility of the lens on the cornea and the physical fit and refractive functionality of the lens on the patient's eye. To be a valid prescription under this subdivision, it must include at least all of the following information:

(*i*) A statement that the prescription is for a contact lens.

(*ii*) The contact lens type or brand name, or for a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of the equivalent or similar brand.

(*iii*) All specifications necessary to order and fabricate the contact lens, including power, material, base curve or appropriate designation, and diameter, if applicable.

(*iv*) The quantity of contact lenses to be dispensed.

(*v*) The number of refills.

(*vi*) Specific wearing instructions and contact lens disposal parameters, if any.

(*vii*) The patient's name.

(*viii*) The date of the examination and evaluation.

(*ix*) The date the prescription is originated.

(*x*) The prescribing licensee's name, address, and telephone number.

(*xi*) The prescribing licensee's written or electronic signature, or other form of authentication.

(*xii*) An expiration date of not less than 1 year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient.

(b) For spectacles, a written or electronic order by a licensee who has examined and evaluated a patient. To be a valid prescription under this subdivision, it must include at least all of the following information:

(*i*) A statement that the prescription is for spectacles.

(*ii*) As applicable and as specified for each eye, the lens power including the spherical power, cylindrical power including axis, prism, and power of the multifocal addition.

(*iii*) Any special requirements, the omission of which would, in the opinion of the prescribing licensee, adversely affect the vision or ocular health of the patient. As used in this subparagraph, "special requirements" includes, but is not limited to, type of lens design, lens material, tint, or lens treatments.

(*iv*) The patient's name.

(*v*) The date of the examination and evaluation.

(*vi*) The date the prescription is originated.

(*vii*) The prescribing licensee's name, address, and telephone number.

(*viii*) The prescribing licensee's written or electronic signature, or other form of authentication.

(*ix*) An expiration date of not less than 1 year from the date of the examination and evaluation or a statement of the reasons why a shorter time is appropriate based on the medical needs of the patient.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5559 Spectacles and contact lenses as medical devices; exceptions.

Sec. 5559. (1) Except as otherwise provided in subsection (2), spectacles and contact lenses are medical devices and are subject to the requirements of this part for the protection of consumers.

(2) This part does not apply to any of the following:

(a) A diagnostic contact lens that is used by a licensee during an examination and evaluation.

(b) An optical instrument or device that is not intended to correct or enhance vision.

(c) An optical instrument or device that is not made, designed, or sold specifically for a particular individual.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5561 Prohibited acts; "supervision" defined.

Sec. 5561. (1) A person shall not do any of the following:

(a) Employ objective or subjective physical means to determine the accommodative or refractive condition or range of power of vision or muscular equilibrium of the human eye unless that activity is performed by a licensee or under the supervision of a licensee.

(b) Prescribe spectacles or contact lenses based on a determination described in subdivision (a) unless that

activity is performed by a licensee.

(c) Dispense, give, or sell spectacles or contact lenses unless dispensed, given, or sold pursuant to a valid prescription.

(d) Use an automated refractor or other automated testing device to generate objective refractive data unless that use is by a licensee or under the supervision of a licensee.

(2) As used in this section, "supervision" means that term as defined in section 16109.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5563 Administration and enforcement of part; rules.

Sec. 5563. (1) Except as otherwise provided in this part, the administration and enforcement of this part is the responsibility of the department.

(2) The department may promulgate rules under the administrative procedures act of 1969 that it determines necessary to implement, administer, and enforce this part.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5565 Allegation of violation; writing; review by department; hearing, oaths, and testimony; authority of department to proceed under MCL 333.5567; initiation of investigation.

Sec. 5565. (1) A person or governmental entity that believes that a violation of this part or a rule promulgated under this part has occurred or has been attempted may make an allegation of that fact to the department in writing.

(2) If, upon reviewing an allegation under subsection (1), the department determines there is a reasonable basis to believe the existence of a violation or attempted violation of this part or a rule promulgated under this part, the department shall investigate.

(3) The department may hold hearings, administer oaths, and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

(4) The department may proceed under section 5567 if it determines that a violation of this part or a rule promulgated under this part has occurred.

(5) This section does not require the department to wait until harm to human health has occurred to initiate an investigation under this section.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5567 Order to cease and desist; hearing; costs; referral of case for further enforcement; action under MCL 333.5569 or 333.5571.

Sec. 5567. (1) After a determination as described in section 5565(4), the department may order a person to cease and desist from a violation of this part or a rule promulgated under this part.

(2) A person ordered to cease and desist under this section is entitled to a hearing before the department if a written request for a hearing is filed within 30 days after the effective date of the order.

(3) The department may assess costs related to the investigation of a violation of this part or rules promulgated under this part. The department may issue an order for costs assessed under this subsection after a hearing held in compliance with the administrative procedures act of 1969.

(4) The department may refer a case for further enforcement action under section 5569 or 5571 against a person that fails to comply with a cease and desist order that is not contested or that is upheld following a hearing.

(5) The department is not required to issue a cease and desist order before taking action under section 5569 or 5571.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5569 Civil action; filing; injunction or other relief; civil fine; costs; attorney fees.

Sec. 5569. (1) The department may file a civil action in a court of competent jurisdiction seeking an injunction or other appropriate relief to enforce this part or a rule promulgated under this part.

(2) In an action under subsection (1), the court may impose on a person that violates or attempts to violate this part or a rule promulgated under this part a civil fine of not less than $5,000.00 for each violation or attempted violation. The court may also award costs of an investigation and attorney fees from a person that violates or attempts to violate this part or a rule promulgated under this part.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

333.5571 Violation of part, rule, or order as misdemeanor; fine; costs; attorney fees.

Sec. 5571. A person that violates this part or a rule promulgated under this part or violates a cease and desist order issued under this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $5,000.00 or more than $25,000.00, or both. If successful in obtaining a conviction, the agency prosecuting the case is entitled to actual costs and attorney fees from the defendant.

History: Add. 2014, Act 269, Eff. Sept. 30, 2014.

PART 56
OCCUPATIONAL DISEASES

333.5601 "Occupational disease" defined; general definitions and principles of construction.

Sec. 5601. (1) As used in this part, "occupational disease" means an illness of the human body arising out of and in the course of an individual's employment and having 1 or more of the following characteristics:

(a) It is caused by a frequently repeated or continuous exposure to a hazardous substance or agent or to a specific industrial practice which is hazardous and which has continued over an extended period of time.

(b) It is caused by an acute exposure to a hazardous substance or agent.

(c) It presents symptoms characteristic of an occupational disease known to have resulted in other cases from the same type of specific exposure.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Compiler's note: For transfer of powers and duties of the division of occupational health in the bureau of environmental and occupational health, with the exception of dry cleaning unit, from the department of public health to the director of the department of labor, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5611 Report of occupational disease or health condition aggravated by workplace exposures; time; contents; forms and instructions.

Sec. 5611. (1) A physician, hospital, clinic, or employer knowing of an individual having a case of occupational disease or a health condition aggravated by workplace exposures shall report the case to the department within 10 days after the discovery of the occupational disease or condition.

(2) A physician, hospital, clinic, or employer knowing of a suspected case of occupational disease or a health condition aggravated by workplace exposures shall report the case to the department within 10 days after the discovery of the occupational disease or condition.

(3) The report shall state the name and address of the individual, the name and business address of the employer, the business of the employer, the place of the individual's employment, the length of time of employment in the place where the individual became ill, the nature of the disease, and other information required by the department.

(4) The department shall prepare and furnish the report forms and instructions for their use to physicians, hospitals, clinics, and employers.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5613 Investigation; advising physician of nature of hazardous substance or agent and conditions of exposure; confidentiality.

Sec. 5613. (1) The department, upon receiving a report under section 5611 or believing that a case or suspected case of occupational disease exists in this state, may investigate to determine the accuracy of the report and the cause of the disease.

(2) To aid in the diagnosis or treatment of an occupational disease, the department shall advise the physician in charge of a patient of the nature of the hazardous substance or agent and the conditions of exposure of the patient as established by the investigation. In so doing the department shall protect the confidentiality of trade secrets or privileged information disclosed by the investigations in accordance with section 13 of Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5621 Reports not public records; exemption from disclosure; access to record.

Sec. 5621. (1) Reports submitted to the department under section 5611 are not public records and are exempt from disclosure pursuant to section 13(1)(d) of Act No. 442 of the Public Acts of 1976.

(2) The bureau of worker's disability compensation and the compensation appeal board in the department of labor shall have access to the record of an actual case of occupational disease in a compensation case before it.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5623 Statistical summaries; dissemination of instructions and information.

Sec. 5623. (1) Not less than once each year, the department shall compile statistical summaries of all occupational diseases reported and accepted as covering true occupational diseases, and the kinds of employment leading to the occurrence of the diseases.

(2) The department shall disseminate to appropriate employers in this state appropriate instructions and information to prevent the occurrence of occupational diseases.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5639 Failure to make report or wilful false statement as misdemeanor; penalty.

Sec. 5639. A physician, hospital or clinic administrator, or employer who fails to make a report or who wilfully makes a false statement in a report required by section 5611(1) is guilty of a misdemeanor punishable by a fine of not more than $50.00.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

PART 56A
TERMINAL ILLNESS

333.5651 Short title of part.

Sec. 5651. This part shall be known and may be cited as the "Michigan dignified death act".

History: Add. 1996, Act 594, Eff. Mar. 31, 1997.

Popular name: Act 368

333.5652 Legislative findings; Michigan dignified death act.

Sec. 5652. (1) The legislature finds all of the following:

(a) That patients face a unique set of circumstances and decisions once they have been diagnosed as having a reduced life expectancy due to advanced illness.

(b) That published studies indicate that patients with reduced life expectancy due to advanced illnesses fear that in end-of-life situations they could receive unwanted aggressive medical treatment.

(c) That patients with reduced life expectancy due to advanced illnesses are often unaware of their legal rights, particularly with regard to controlling end-of-life decisions.

(d) That the free flow of information among health care providers, patients, and patients' families can give patients and their families a sense of control over their lives, ease the stress involved in coping with a reduced life expectancy due to advanced illness, and provide needed guidance to all involved in determining the appropriate variety and degree of medical intervention to be used.

(e) That health care providers should be encouraged to initiate discussions with their patients regarding advance medical directives during initial consultations, annual examinations, and hospitalizations, at diagnosis of a chronic illness, and when a patient transfers from 1 health care setting to another.

(2) In affirmation of the tradition in this state recognizing the integrity of patients and their desire for a humane and dignified death, the Michigan legislature enacts the "Michigan dignified death act". In doing so, the legislature recognizes that a well-considered body of common law exists detailing the relationship between health care providers and their patients. This act is not intended to abrogate any part of that common law. This act is intended to increase awareness of the right of a patient who has a reduced life expectancy due to advanced illness to make decisions to receive, continue, discontinue, or refuse medical treatment. It is hoped that by doing so, the legislature will encourage better communication between patients with reduced life expectancy due to advanced illnesses and health care providers to ensure that the patient's final days are meaningful and dignified.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 239, Imd. Eff. Jan. 8, 2002.

Popular name: Act 368

333.5653 Definitions.

Sec. 5653. (1) As used in this part:

(a) "Advanced illness", except as otherwise provided in this subdivision, means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation, the time course of which may or may not be determinable through reasonable medical prognostication. For purposes of section 5655(b) only, "advanced illness" has the same general meaning as "terminal illness" has in the medical community.

(b) "Health facility" means a health facility or agency licensed under article 17.

(c) "Hospice" means that term as defined in section 20106.

(d) "Medical treatment" means a treatment including, but not limited to, palliative care treatment, or a procedure, medication, surgery, a diagnostic test, or a hospice plan of care that may be ordered, provided, or withheld or withdrawn by a health professional or a health facility under generally accepted standards of medical practice and that is not prohibited by law.

(e) "Patient" means an individual who is under the care of a physician.

(f) "Patient advocate" means that term as described and used in sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(g) "Patient surrogate" means the parent or legal guardian of a patient who is a minor or a member of the immediate family, the next of kin, or the legal guardian of a patient who has a condition other than minority that prevents the patient from giving consent to medical treatment.

(h) "Physician" means that term as defined in section 17001 or 17501.

(2) Article 1 contains general definitions and principles of construction applicable to all articles in this code.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2000, Act 58, Eff. Apr. 1, 2000;—Am. 2001, Act 239, Imd. Eff. Jan. 8, 2002 ;—Am. 2004, Act 551, Imd. Eff. Jan. 3, 2005.

Popular name: Act 368

333.5654 Recommended medical treatment for advanced illness; duty of physician to inform orally; limitation or modification of disclosed information.

Sec. 5654. (1) A physician who has diagnosed a patient as having a reduced life expectancy due to an advanced illness and is recommending medical treatment for the patient shall do all of the following:

(a) Orally inform the patient, the patient's patient surrogate, or, if the patient has designated a patient advocate and is unable to participate in medical treatment decisions, the patient advocate acting on behalf of the patient in accordance with sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515, about the recommended medical treatment and about alternatives to the recommended medical treatment.

(b) Orally inform the patient, patient surrogate, or patient advocate about the advantages, disadvantages, and risks of the recommended medical treatment and of each alternative medical treatment described in subdivision (a) and about the procedures involved.

(2) A physician's duty to inform a patient, patient surrogate, or patient advocate under subsection (1) does not require the disclosure of information beyond that required by the applicable standard of practice.

(3) Subsection (1) does not limit or modify the information required to be disclosed under sections 5133(2) and 17013(1).

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2000, Act 58, Eff. Apr. 1, 2000;—Am. 2001, Act 239, Eff. Oct. 1, 2002;—Am. 2004, Act 551, Imd. Eff. Jan. 3, 2005.

Popular name: Act 368

333.5655 Recommended medical treatment for advanced illness; duty of physician to inform orally and in writing; requirements.

Sec. 5655. In addition to the requirements of section 5654, a physician who has diagnosed a patient as having a reduced life expectancy due to an advanced illness and is recommending medical treatment for the patient shall, both orally and in writing, inform the patient, the patient's patient surrogate, or, if the patient has designated a patient advocate and is unable to participate in medical treatment decisions, the patient advocate, of all of the following:

(a) If the patient has not designated a patient advocate, that the patient has the option of designating a patient advocate to make medical treatment decisions for the patient in the event the patient is not able to participate in his or her medical treatment decisions because of his or her medical condition.

(b) That the patient, or the patient's patient surrogate or patient advocate, acting on behalf of the patient, has the right to make an informed decision regarding receiving, continuing, discontinuing, and refusing

medical treatment for the patient's reduced life expectancy due to advanced illness.

(c) That the patient, or the patient's patient surrogate or patient advocate, acting on behalf of the patient, may choose palliative care treatment including, but not limited to, hospice care and pain management.

(d) That the patient or the patient's surrogate or patient advocate acting on behalf of the patient may choose adequate and appropriate pain and symptom management as a basic and essential element of medical treatment.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 239, Eff. Oct. 1, 2002.

Compiler's note: Enacting section 3 of Act 239 of 2001 provides:

"Enacting section 3. The 2001 amendatory act that amended section 5655 of the public health code, 1978 PA 368, MCL 333.5655, shall not be construed as creating a new mandated benefit for any coverages issued under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or any other health care payment or benefits plan."

Popular name: Act 368

333.5656 Updated standardized written summary; development; publication; contents; availability to physicians.

Sec. 5656. (1) By July 1, 2002, the department of community health shall develop and publish an updated standardized, written summary that contains all of the information required under section 5655.

(2) The department shall develop the updated standardized, written summary in consultation with appropriate professional and other organizations. The department shall draft the summary in nontechnical terms that a patient, patient surrogate, or patient advocate can easily understand.

(3) The department shall make the updated standardized, written summary described in subsection (1) available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery created in article 15. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing each physician subject to this part of the requirements of this part and the availability of the updated standardized, written summary within 10 days after the updated standardized, written summary is published.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Compiler's note: Enacting section 3 of Act 237 of 2001 provides:

"Enacting section 3. The 2001 amendatory act that amended section 5656 of the public health code, 1978 PA 368, MCL 333.5656, shall not be construed as creating a new mandated benefit for any coverages issued under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, or any other health care payment or benefits plan."

Popular name: Act 368

333.5657 Availability of form to patient, patient surrogate, or patient advocate; compliance with MCL 333.5656; placement of signed form in patient's medical record; signed form as bar to civil or administrative action.

Sec. 5657. (1) If a physician gives a copy of the standardized, written summary developed and published before July 1, 2002 or a copy of the updated standardized, written summary made available under section 5656 to a patient with reduced life expectancy due to advanced illness, to the patient's patient surrogate, or to the patient advocate, the physician is in full compliance with the requirements of section 5655.

(2) A physician may make available to a patient with reduced life expectancy due to advanced illness, to the patient's patient surrogate, or to the patient advocate a form indicating that the patient, patient surrogate, or patient advocate has been given a copy of the standardized, written summary developed and published under section 5656 before July 1, 2002 or a copy of the updated standardized, written summary developed and published under section 5656 on or after July 1, 2002 and received the oral information required under section 5654. If a physician makes such a form available to a patient, to the patient's patient surrogate, or to the patient advocate, the physician shall request that the patient, patient's patient surrogate, or patient advocate sign the form and shall place a copy of the signed form in the patient's medical record.

(3) A patient, a patient's patient surrogate, or a patient advocate who signs a form under subsection (2) is barred from subsequently bringing a civil or administrative action against the physician for providing the information orally and in writing under section 5655 based on failure to obtain informed consent.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Oct. 1, 2002.

Popular name: Act 368

333.5658 Prescription of controlled substance; immunity from administrative and civil liability.

Sec. 5658. A physician who, as part of a medical treatment plan for a patient with reduced life expectancy

due to advanced illness, prescribes for that patient a controlled substance that is included in schedules 2 to 5 under part 72 and that is a narcotic drug is immune from administrative and civil liability based on prescribing the controlled substance if the prescription is given in good faith and with the intention to treat a patient with reduced life expectancy due to advanced illness or alleviate the patient's pain, or both, and all of the following are met:

(a) The prescription is for a legitimate legal and professionally recognized therapeutic purpose.

(b) Prescribing the controlled substance is within the scope of practice of the physician.

(c) The physician holds a valid license under article 7 to prescribe controlled substances.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Popular name: Act 368

333.5659 Life insurer, health insurer, or health care payment or benefits plan; prohibited acts.

Sec. 5659. A life insurer, a health insurer, or a health care payment or benefits plan shall not do 1 or more of the following because a patient with reduced life expectancy due to advanced illness, the patient's patient surrogate, or the patient advocate has made a decision to refuse or discontinue a medical treatment as a result of information received as required under this part:

(a) Refuse to provide or continue coverage or benefits to the patient within the scope and level of coverage or benefits of an existing policy, certificate, or contract.

(b) Limit the amount of coverage or benefits available to the patient within the scope and level of coverage or benefits of an existing policy, certificate, or contract.

(c) Charge the patient a different rate for coverage or benefits under an existing policy, certificate, or contract.

(d) Consider the terms of an existing policy, certificate, or contract to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy, certificate, or contract covering the patient.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Popular name: Act 368

333.5660 Scope of part; limitation.

Sec. 5660. This part does not do the following:

(a) Impair or supersede a legal right a parent, patient, patient advocate, legal guardian, or other individual may have to consent to or refuse medical treatment on behalf of another.

(b) Create a presumption about the desire of a patient who has reduced life expectancy due to advanced illness to receive or refuse medical treatment, regardless of the ability of the patient to participate in medical treatment decisions.

(c) Limit the ability of a court making a determination about a decision of a patient who has reduced life expectancy due to advanced illness to take into consideration all of the following state interests:

(*i*) The preservation of life.

(*ii*) The prevention of suicide.

(*iii*) The protection of innocent third parties.

(*iv*) The preservation of the integrity of the medical profession.

(d) Condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997;—Am. 2001, Act 237, Eff. Jan. 8, 2002.

Popular name: Act 368

333.5661 Fraud resulting in death of patient; violation as felony; penalty.

Sec. 5661. (1) An individual shall not, by fraud, cause or attempt to cause a patient, patient surrogate, or patient advocate to make a medical treatment decision that results in the death of the patient with the intent to benefit financially from the outcome of the medical treatment decision. As used in this subsection, "fraud" means a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, that deceives and is intended to deceive another so that he or she acts upon it to his or her legal injury.

(2) An individual who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

History: Add. 1996, Act 594, Eff. Mar. 31, 1997.

Popular name: Act 368

PART 56B
PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

333.5671 Words and phrases; applicability of definitions and principles of construction.

Sec. 5671. (1) As used in this part, the words and phrases defined in sections 5672 to 5674 have the meanings ascribed to them in those sections.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5672 Definitions: A to C.

Sec. 5672. (1) "Actual notice" includes the physical presentation of a POST form or a revoked POST form, or the electronic transmission of a POST form or a revoked POST form if the recipient of the form sends an electronic confirmation to the patient, patient representative, or attending health professional, who sent the electronic transmission, indicating that the POST form or revoked POST form has been received. Actual notice also includes knowledge of a patient's intent to revoke the POST form by a health professional who is treating the patient, by an attending health professional, or by emergency medical services personnel.

(2) "Adult foster care facility" means that term as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(3) "Advanced illness" means a medical or surgical condition with significant functional impairment that is not reversible by curative therapies and that is anticipated to progress toward death despite attempts at curative therapies or modulation.

(4) "Attending health professional" means a physician, physician's assistant, or certified nurse practitioner, who has primary responsibility for the treatment of a patient and is authorized to issue the medical orders on a POST form.

(5) "Certified nurse practitioner" means an individual licensed as a registered professional nurse under part 172 who has been issued a specialty certification as a nurse practitioner by the Michigan board of nursing under section 17210.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5673 Definitions; E to I.

Sec. 5673. (1) "Emergency medical protocol" means a protocol as that term is defined in section 20908.

(2) "Emergency medical services personnel" means that term as defined in section 20904, but does not include an emergency medical services instructor-coordinator.

(3) "Guardian" means a person with the powers and duties to make medical treatment decisions on behalf of a patient to the extent granted by court order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(4) "Health facility" means a health facility or agency licensed under article 17. Health facility does not include a hospital unless specifically provided.

(5) "Health professional" means an individual licensed, registered, or otherwise authorized to engage in the practice of a health profession under article 15.

(6) "Hospital" means that term as defined in section 20106.

(7) "Information form" means the information form described in section 5676.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5674 Definitions; M to W.

Sec. 5674. (1) "Medical control authority" means that term as defined in section 20906.

(2) "Patient" means an adult with an advanced illness or means an adult with another medical condition that, despite available curative therapies or modulation, compromises his or her health so as to make death within 1 year foreseeable though not a specific or predicted prognosis.

(3) "Patient advocate" means an individual presently authorized to make medical treatment decisions on behalf of a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(4) "Patient representative" means a patient advocate or a guardian.

(5) "Person" means that term as defined in section 1106 or a governmental entity.

(6) "Physician" means that term as defined in section 17001 or 17501.

(7) "Physician orders for scope of treatment form" or "POST form" means the standardized POST form described in section 5676. A POST form is not an advance health care directive.

(8) "Physician's assistant" means an individual licensed as a physician's assistant under part 170 or part 175.

(9) "Residential setting" means a setting outside of a hospital, including, but not limited to, an adult foster care facility.

(10) "Ward" means that term as defined in section 1108 of the estates and protected individuals code, 1998 PA 386, MCL 700.1108.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5675 Advisory committee; appointment; membership; recommendations; abolishment; "committee" defined.

Sec. 5675. (1) Not later than 90 days after the effective date of the amendatory act that added this part, the director shall appoint members of and convene an ad hoc advisory committee. The committee must consist of 11 members appointed as follows:

(a) Four members of the committee must include 1 individual representing each of the following:

(*i*) A health facility or an adult foster care facility, or an organization or professional association representing health facilities or adult foster care facilities.

(*ii*) A palliative care provider.

(*iii*) Emergency medical services personnel.

(*iv*) A medical control authority.

(b) Seven members of the committee may include, but are not limited to, individuals representing the following:

(*i*) A health professional.

(*ii*) A patient advocacy organization.

(2) Within 180 days after the committee is convened, the committee shall make recommendations to the department on all of the following:

(a) Subject to section 5676, the creation of a standardized POST form.

(b) Medical orders to be included on the POST form that relate to emergency and nonemergency situations.

(c) Subject to section 5676, the creation of an information form.

(d) The procedures for the use of a POST form within a residential setting.

(e) The circumstances under which a photocopy, facsimile, or digital image of a completed POST form is considered valid for purposes of a health professional, a health facility, an adult care facility, or emergency medical services personnel complying with the orders for medical treatment on the POST form.

(3) After the department receives the recommendations from the committee under subsection (2), the committee is abolished.

(4) As used in this section, "committee" means the ad hoc advisory committee appointed under subsection (1).

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5676 Duties of department; publication of information or materials regarding POST form.

Sec. 5676. (1) The department, after considering the recommendations of the advisory committee under section 5675, shall do all of the following:

(a) Develop a standardized POST form that has a distinct format and is printed on a specific stock and color of paper to make the form easily identifiable. The department shall include on the POST form at least all of the following:

(*i*) A space for the printed name of the patient, the patient's age, and the patient's diagnosis or medical condition that warrants the medical orders on the POST form.

(*ii*) A space for the signature of the patient or the patient representative who consents to the medical orders indicated on the POST form and a space to indicate the date the patient or the patient representative signed the form.

(*iii*) A space for the printed name and signature of the attending health professional who issues the medical orders on the POST form.

(*iv*) Sections containing medical orders that direct specific types or levels of treatment to be provided in a setting outside of a hospital to which a patient or a patient representative may provide consent.

(*v*) A space for the date and the initials of either the attending health professional and the patient or the attending health professional and the patient representative. The POST form must also include a statement that, by dating and initialing the POST form, the individuals described in this subparagraph confirm that the medical orders on the form remain in effect.

(*vi*) A statement that, within a time frame established by the department by rule, the POST form must be reviewed, dated, and initialed by either the attending health professional and the patient or the attending health professional and the patient representative, if any of the following have occurred:

(A) One year has expired since the patient and the attending health professional or the patient representative and the attending health professional have signed or initialed the POST form.

(B) There has been an unexpected change in the patient's medical condition.

(C) The patient is transferred from 1 care setting or care level to another care setting or care level.

(D) The patient's treatment preferences change.

(E) The patient's attending health professional changes.

(*vii*) A statement that a patient or a patient representative has the option of executing a POST form and that consenting to the medical orders on the POST form is voluntary.

(*viii*) A statement that the POST form is void if any information described in subparagraph (*i*), (*ii*), or (*iii*) is not provided on the form or if a requirement described in subparagraph (*vi*) is not met.

(*ix*) A statement that if a section on the POST form regarding a specific type or level of treatment is left blank, the blank section will be interpreted as authorizing full treatment for the patient for that treatment, but a blank section on the POST form regarding a specific type or level of treatment does not invalidate the entire form or other medical orders on the form.

(*x*) A space for the printed name and contact information of the patient representative, if applicable.

(b) Develop an information form. The department shall include on the information form at least all of the following:

(*i*) An introductory statement in substantially the following form:

"The POST form is intended to be used as part of an advance care planning process. The POST form is not intended to be used as a stand-alone advance health care directive that unilaterally expresses the patient's medical treatment wishes. The POST form contains medical orders that are jointly agreed to by the patient and the attending health professional or the patient representative and the attending health professional. The medical orders on the POST form reflect both the patient's expressed wishes or best interests and the attending health professional's medical advice or recommendation. An advance care planning process that uses the POST form must recommend that the patient consider designating an individual to serve as the patient's patient advocate to make future medical decisions on behalf of the patient if the patient becomes unable to do so.".

(*ii*) An explanation of who is considered a patient with an advanced illness for purposes of executing a POST form.

(*iii*) An explanation of how a patient advocate is designated under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(*iv*) A statement indicating that, by signing the information form, the patient or the patient representative acknowledges that he or she had the opportunity to review the information form before executing a POST form.

(*v*) A space for the signature of the patient or the patient representative and a space to indicate the date the patient or the patient representative reviewed the information form.

(c) Promulgate rules to implement this part. The rules must include, but are not limited to, the procedures for the use of a POST form within a residential setting and the circumstances under which a photocopy, facsimile, or digital image of a completed POST form will be considered valid for purposes of a health professional, a health facility, an adult foster care facility, or emergency medical services personnel complying with the medical orders on the form.

(2) The department may publish information or materials regarding the POST form on the department's website.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5677 POST form; individuals consenting to medical orders; consent by patient representative; information to be provided by attending health professional; signature; copy of form as part of medical record; possession of original form.

Sec. 5677. (1) The following individuals may consent to the medical orders contained on a POST form:

(a) If a patient is capable of participating in the medical treatment decisions included on the POST form, the patient.

(b) Subject to subsection (2), if a patient is not capable of participating in the medical treatment decisions included on the POST form, either of the following:

(*i*) A patient representative who is a patient advocate.

(*ii*) A patient representative who is a guardian after complying with section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(2) If a patient representative is consenting to the medical orders contained on the POST form, the patient representative shall comply with the patient's expressed wishes. If the patient's wishes are unknown, the patient representative shall consent to the medical orders in the following manner:

(a) If the patient representative is a guardian, in a manner that is consistent with the patient's best interest.

(b) If the patient representative is a patient advocate, subject to section 5509(1)(e) of the estates and protected individuals code, 1998 PA 386, MCL 700.5509.

(3) Before a patient and an attending health professional or a patient representative and an attending health professional sign a POST form, the attending health professional shall provide the patient or the patient representative with the information form and, if the patient does not have a patient representative, the attending health professional shall recommend to the patient that the patient consider designating an individual to serve as the patient's patient advocate to make future medical decisions on behalf of the patient if the patient becomes unable to do so. The attending health professional shall also consult with the patient or patient representative and explain to the patient or patient representative the nature and content of the POST form and the medical implications of the medical orders contained on the POST form. The patient or patient representative shall sign the information form at the time he or she signs the POST form under this subsection. The attending health professional who signs the POST form shall place the information form that is signed by the patient or the patient representative in the patient's permanent medical record. The attending health professional who signs the POST form shall also obtain a copy or duplicate of the POST form and make that copy or duplicate part of the patient's permanent medical record. The patient or the patient representative shall maintain possession of the original POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5678 Revocation of POST form.

Sec. 5678. (1) The following individuals may revoke a POST form under the following circumstances:

(a) A patient may revoke the POST form at any time and in any manner that the patient is able to communicate his or her intent to revoke the POST form. If the patient's revocation is not in writing, an individual who witnesses the patient's expressed intent to revoke the POST form shall describe in writing the circumstances of the revocation, sign the writing, and provide the writing to the individuals described in subsection (2), as applicable.

(b) The patient representative may revoke the POST form at any time the patient representative considers revoking the POST form to be consistent with the patient's wishes or, if the patient's wishes are unknown, in the patient's best interest.

(c) If a change in the patient's medical condition makes the medical orders on the POST form contrary to generally accepted health care standards, the attending health professional may revoke the POST form. If an attending health professional revokes a POST form under this subdivision, he or she shall take reasonable actions to notify the patient or the patient representative of the revocation and the change in the patient's medical condition that warranted the revocation of the POST form.

(2) Upon revocation of the POST form, the patient, patient representative, or attending health professional shall write "revoked" over the signature of the patient or patient representative, as applicable, and over the signature of the attending health professional, on the POST form that is contained in the patient's permanent medical record and on the original POST form if the original POST form is available. If a patient or patient representative revokes the POST form, the patient or patient representative shall take reasonable actions to notify 1 or more of the following of the revocation:

(a) The attending health professional.

(b) A health professional who is treating the patient.

(c) The health facility that is directly responsible for the medical treatment or care and custody of the patient.

(d) The patient.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5679 POST form; use as communication tool; treatment by emergency medical services personnel; exceptions; noncompliance by health professional or health facility.

Sec. 5679. (1) In an acute care setting, a health professional who is treating the patient may use a completed POST form as a communication tool.

(2) Emergency medical services personnel shall provide or withhold treatment to a patient according to the orders on a POST form unless any of the following apply:

(a) The emergency medical services being provided by the emergency medical services personnel are necessitated by an injury or medical condition that is unrelated to the diagnosis or medical condition that is indicated on the patient's POST form.

(b) The orders on the POST form request medical treatment that is contrary to generally accepted health care standards or emergency medical protocols.

(c) The POST form contains a medical order regarding the initiation of resuscitation if the patient suffers cessation of both spontaneous respiration and circulation, and the emergency medical services personnel has actual notice of a do-not-resuscitate order that was executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, after the POST form was validly executed. As used in this subdivision, "actual notice" means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

(d) The POST form has been revoked in the manner provided in this part and the emergency medical services personnel has actual notice of the revocation.

(3) If a health professional or health facility is unwilling to comply with the medical orders on a validly executed POST form because of a policy, religious belief, or moral conviction, the health professional or health facility shall take all reasonable steps to refer or transfer the patient to another health professional or health facility. If an adult foster care facility is unwilling to comply with the medical orders on a validly executed POST form for the reasons described in this subsection, the adult foster care facility shall take all reasonable steps to refer or transfer the patient to another adult foster care facility as provided in section 26c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.726c.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5680 Treatment or services not subject to criminal prosecution, civil liability, or professional disciplinary action.

Sec. 5680. A person is not subject to criminal prosecution, civil liability, or professional disciplinary action for any of the following:

(a) Providing medical treatment that is contrary to the medical orders indicated on a POST form if the person did not have actual notice of the POST form.

(b) Providing medical treatment that is consistent with the medical orders indicated on a POST form if the person did not have actual notice that the POST form was revoked.

(c) Providing emergency medical services consistent with generally accepted health care standards or emergency medical protocols as provided in section 5679, regardless of the medical orders indicated on the POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5681 Valid execution of POST form; presumption.

Sec. 5681. (1) If a POST form is validly executed after a patient advocate designation that contains written directives regarding medical treatment, or another advance health care directive that contains written directives regarding medical treatment, the medical orders indicated on the POST form are presumed to express the patient's current wishes.

(2) If a POST form is validly executed after a do-not-resuscitate order is executed under the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1051 to 333.1067, the medical orders indicated on the POST form are presumed to express the patient's current wishes.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5682 Belief that execution of POST form contrary to wishes or best interests; petition; review; injunction.

Sec. 5682. If an individual has reason to believe that a POST form has been executed contrary to the wishes of the patient or, if the patient is a ward, contrary to the wishes or best interests of the ward, the individual may petition the probate court to have the POST form and the conditions of its execution reviewed. If the probate court finds that the POST form has been executed contrary to the wishes of the patient or, if the patient is a ward, contrary to the wishes or best interests of the ward, the probate court shall issue an injunction voiding the effectiveness of the POST form and prohibiting compliance with the POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5683 Life or health insurer; prohibited conduct.

Sec. 5683. (1) A life insurer shall not do any of the following because of the execution or implementation of a POST form:

(a) Refuse to provide or continue coverage to the patient.

(b) Charge the patient a higher premium.

(c) Offer a patient different policy terms because the patient has executed a POST form.

(d) Consider the terms of an existing policy of life insurance to have been breached or modified.

(e) Invoke a suicide or intentional death exemption or exclusion in a policy covering the patient.

(2) A health insurer shall not do any of the following:

(a) Require the execution of a POST form to maintain or be eligible for coverage.

(b) Charge a different premium based on whether a patient or patient representative has executed a POST form.

(c) Consider the terms of an existing policy to have been breached or modified if the patient or patient representative has executed a POST form.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5684 Provisions as cumulative; legal right not impaired or superseded; presumption.

Sec. 5684. (1) The provisions of this part are cumulative and do not impair or supersede a legal right that a patient or patient representative may have to consent to or refuse medical treatment for himself or herself or on behalf of another.

(2) This part does not create a presumption that a patient who has executed a POST form intends to consent to or refuse medical treatment that is not addressed in the medical orders on the POST form.

(3) This part does not create a presumption that a patient or patient representative who has not executed a POST form intends to consent to or refuse any type of medical treatment.

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

333.5685 Advisory committee to be appointed 3 years after effective date of amendatory act; meeting; recommendations; report; abolishment; "committee" defined.

Sec. 5685. (1) By 3 years after the effective date of the amendatory act that added this part, the director shall appoint an ad hoc advisory committee consisting of 11 members in the same manner as the ad hoc advisory committee is required to be appointed under section 5675.

(2) The director shall call the first meeting of the committee.

(3) Within 90 days after the first meeting of the committee is convened, the committee shall submit a report to the department that contains recommendations on all of the following:

(a) Any changes to the rules promulgated under section 5676 that the committee considers necessary or appropriate.

(b) Any changes to the POST form or the information form that the committee considers necessary or appropriate.

(c) Any legislative changes to this part that the committee considers necessary or appropriate.

(4) After the department receives the recommendations from the committee under subsection (3), the committee is abolished.

(5) As used in this section, "committee" means the ad hoc advisory committee appointed under subsection (1).

History: Add. 2017, Act 154, Eff. Feb. 6, 2018.

Popular name: Act 368

PART 57

333.5701 Definitions.

Sec. 5701. (1) As used in this part:

(a) "Agent orange" means the chemical herbicide made from chemicals known as 2,4-Dichlorophenoxyacetic acid and its esters, or 2,4-D, and Trichlorophenoxyacetic acid and its esters, or 2,4,5-T.

(b) "Chemical agent" means a chemical herbicide or defoliant other than agent orange, or a chemical weapon, which chemical herbicide, defoliant, or weapon is of the type used by the armed forces of the United States.

(c) "Commission" means the agent orange commission created in section 5731.

(d) "Department" means the department of health and human services in cooperation with the veterans' service offices.

(e) "Dioxin" means the chemicals known as 2,3,7,8-Tetrachlorodibenzo-p-dioxin, or 2,3,7,8-TCDD.

(f) "Hospital" means a hospital licensed pursuant to article 17.

(g) "Information resource center" means the agent orange information resource center created in section 5745.

(h) "Physician" means a physician licensed pursuant to article 15.

(i) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

(j) "Vietnam-era veteran" means a veteran who served in the armed forces of the United States between 12:01 a.m., January 1, 1961, and 12:01 a.m., September 1, 1973, and who meets either of the following criteria:

(*i*) Has been a resident of this state continuously since June 11, 1987.

(*ii*) Is a resident of this state at the time he or she begins participating in testing or other activities under this part, and was a resident of this state at the time of induction into the armed forces of the United States.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987;—Am. 2016, Act 206, Eff. Sept. 20, 2016.

Popular name: Act 368

333.5703 Toxicological studies; consent; report; information on physical health.

Sec. 5703. (1) The department, in consultation and cooperation with the commission, shall conduct toxicological studies on a selected sample of Vietnam-era veterans to establish their exposure to agent orange or a chemical agent. In conducting the studies, the department shall analyze appropriate specimens for dioxin in combination with a review of Vietnam-era veterans' military service locations. The department shall obtain prior written consent from each Vietnam-era veteran to be studied under this section. The department shall compile and evaluate information obtained from these studies into a report, and shall submit the report to the commission for review and publication.

(2) The department shall gather information on the physical health of study participants and their families to the extent the department considers necessary.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5709 Studying causes of death.

Sec. 5709. The department, in consultation and cooperation with the commission, shall study the causes of death among Vietnam-era veterans, utilizing the department's vital statistics records and the agent orange registry data base maintained by the information resource center under section 5745. The information obtained under this section shall serve as a foundation for additional epidemiological studies on the relative incidence of disease among Vietnam-era veterans.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5711 Epidemiological studies; consent.

Sec. 5711. The department, in consultation and cooperation with the commission, shall conduct epidemiological studies on a selected sample of Vietnam-era veterans who have a history of cancer or other medical problems associated with exposure to agent orange or a chemical agent, or who have children born with birth defects after the Vietnam-era veteran's suspected exposure to agent orange or a chemical agent. Levels of dioxin in the blood serum of Vietnam-era veterans shall be established by analysis of appropriate

specimens for dioxin. The department shall obtain prior written consent from each Vietnam-era veteran to be studied under this section.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5713 Annual report; recommendations.

Sec. 5713. The department shall compile and analyze the information obtained under sections 5709 and 5711, and shall produce an annual report which shall be distributed through the information resource center to veterans' organizations, the federal centers for disease control, the chairpersons of the committees of the senate and house of representatives responsible for legislation concerning veterans, and other appropriate governmental offices. The department shall make any recommendations for additional actions to the commission.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5715 Report or other information as public information; availability; confidentiality of medical information.

Sec. 5715. (1) A departmental report under section 5703 or 5713, or other compilation of information collected under this part, unless it discloses the identity of an individual who does not consent to the disclosure, is public information, and shall be made available in accordance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) Medical information about an individual that is gathered under this part is confidential and shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5717 Birth defects registry; establishment; purposes.

Sec. 5717. The department shall establish a birth defects registry for all of the following purposes:

(a) To provide information on the incidence and trends of birth defects among Vietnam-era veterans and their families, and among the general population.

(b) To provide information to determine whether environmental hazards such as exposure to agent orange or chemical agents are associated with birth defects and to provide information as to other possible causes of birth defects among Vietnam-era veterans and among the general population.

(c) To develop prevention strategies for reducing the incidence of birth defects among Vietnam-era veterans and their families, and among the general population.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5721 Birth defects; reports; records; confidentiality; rules; submission to medical examination or supervision not required; contract for collection and analysis of data; evaluation of information reported to birth defects registry; public reports.

Sec. 5721. (1) Each diagnosed incidence of a birth defect, including a congenital or structural malformation, or a biochemical or genetic disease, and any information relevant to incidents of birth defects, shall be reported to the department. The reporting shall begin not later than the next calendar year after June 11, 1987.

(2) The department shall maintain comprehensive statewide records of all information reported to the birth defects registry. The information reported shall be subject to the same requirements of confidentiality as provided in section 2631 for data or records concerning medical research projects.

(3) The director shall promulgate rules which provide for all of the following:

(a) A list of birth defects, including, but not limited to, congenital and structural malformations, and biochemical or genetic diseases, and other relevant information to be reported.

(b) The quality and manner in which the incidents of birth defects and other information is to be reported.

(c) The terms and conditions under which records maintained under this section, including any records containing the name and medical condition of a specific individual, may be released by the department.

(4) This section does not compel an individual to submit to medical examination or supervision by the department or otherwise.

(5) The department may contract for the collection and analysis of, and research related to, the data

required under this section.

(6) Within 2 years after June 11, 1987, the department shall begin evaluating the information reported to the birth defects registry. The department shall publish and make available to the public reports summarizing the information collected. The first summary report shall be published not later than 180 days after the end of the first 2 full calendar years after June 11, 1987. Subsequent annual summary reports shall be made on a full calendar year basis and published not later than 180 days after the end of each calendar year.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987;—Am. 1988, Act 236, Eff. Oct. 1, 1988.

Popular name: Act 368

333.5723 Referral services.

Sec. 5723. The department, in collaboration with veterans' counseling sources, shall provide referral services for those Vietnam-era veterans and their dependents who desire counseling or referral.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5725 Class action; purpose.

Sec. 5725. The attorney general, on behalf of Vietnam-era veterans residing in this state who may have been injured because of contact with agent orange or a chemical agent while serving in the armed forces of the United States, may bring a class action against the federal government or any other party for the release of information relating to exposure to agent orange or a chemical agent and for release of individual Vietnam-era veterans' medical records.

History: Add. 1987, Act 48, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5731 Agent orange commission; creation; appointment, qualifications, and terms of members; vacancy.

Sec. 5731. (1) The agent orange commission is created in the department.

(2) The commission is composed of 14 members, including all of the following:

(a) One member is the director, or his or her designee.

(b) One member is the attorney general, or his or her designee.

(c) The remaining members shall be appointed by the governor, with the advice and consent of the senate, as follows:

(*i*) One member shall be a representative of the Michigan veterans trust fund.

(*ii*) Four members shall be researchers who are experts in the fields of cytogenetic evaluations, birth defects, immunological studies, neurological studies, toxicology, oncology, or other fields relevant to the purposes of this part whose knowledge may contribute to the implementation of this part.

(*iii*) Five members shall be Vietnam-era veterans, at least 1 of whom shall be a female Vietnam-era veteran.

(*iv*) Two members shall represent the general public, 1 of whom shall be appointed from a list of nominees provided by the speaker of the house of representatives, and 1 of whom shall be appointed from a list of nominees provided by the majority leader of the senate.

(3) Members shall each serve for terms of 2 years, and those members who are appointed may be reappointed once. A vacancy shall be filled in the same manner as the original appointment for the duration of the unexpired term.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Compiler's note: For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of the agent orange commission to the director of the department of community health and the abolishment of the commission, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.5735 Agent orange commission; duties.

Sec. 5735. The commission shall do all of the following:

(a) Review the toxicological and epidemiological literature on herbicide compounds, and their by-product contaminants, of the type utilized by the armed forces during the period prescribed in section 5701(1)(j).

(b) Review and publicize the department's public information program directed at Vietnam-era veterans who have been exposed to agent orange, a chemical agent, or other herbicide mixtures containing dioxin.

(c) Review the department's programmatic and research activities and provide recommendations to the

department, the chairpersons of the committees of the Senate and House of Representatives responsible for legislation concerning veterans, and other appropriate governmental offices, as to the department's ongoing investigations of the adverse effects on human health of agent orange, chemical agents, and other herbicide mixtures containing dioxin.

(d) Advise and assist the department in the implementation of this part.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Compiler's note: For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of the agent orange commission to the director of the department of community health and the abolishment of the commission, see E.R.O. No. 1997-4, compiled at MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.5737 Agent orange commission; election of chairperson; meetings; travel expenses; conducting business at public meeting; notice; writings available to public.

Sec. 5737. (1) The members annually shall elect a chairperson. The commission shall meet at least 4 times each year at the call of the chairperson. The first meeting of the commission shall be held not later than 3 months after the effective date of this part.

(2) Commission members shall serve without compensation, but shall be reimbursed for their necessary travel expenses for attendance at commission meetings.

(3) The business that the commission performs shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Compiler's note: For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of the agent orange commission to the director of the department of community health and the abolishment of the commission, see E.R.O. No. 1997-4, compiled MCL 333.26324 of the Michigan Compiled Laws.

Popular name: Act 368

333.5745 Agent orange information resource center; creation; membership; duties.

Sec. 5745. (1) There is created an agent orange information resource center within the department.

(2) The information resource center shall have members with expertise in human medicine, toxicology, epidemiology and data management and analysis.

(3) The information resource center, with appropriate extramural consultation, shall develop the survey questionnaires, data base management system, and the medical analysis system for the registry required under subsection (5).

(4) The information resource center annually shall request local veterans' organizations and health agencies to evaluate the operation of the information resource center program from their perspective.

(5) The information resource center shall perform searches of technical documents and published scientific literature. A registry of all known ongoing agent orange related research shall be maintained. These information resources shall be utilized in the annual analysis of data on Vietnam-era veterans and in providing the annual reports required under section 5713.

(6) The information resource center shall solicit state and local media organizations to inform Vietnam-era veterans of their rights under this part, and to encourage Vietnam-era veterans to submit health information, and other relevant information, to the department, commission, and information resource center as required under this part.

(7) The information resource center shall provide local health and veteran's facilities with a comprehensive and annually updated list of tertiary medical care facilities as defined in section 22108, specializing in areas appropriate for the clinical laboratory evaluation of veterans to determine if a Vietnam-era veteran has suffered physical damage as a result of substantial exposure to agent orange or a chemical agent.

(8) The department, through the information resource center or otherwise, shall refer Vietnam-era veterans to appropriate state and federal agencies for the purpose of filing claims to seek remedies for medical and financial problems caused by the Vietnam-era veterans' exposure to agent orange or chemical agents.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Compiler's note: For transfer of certain powers and duties of the agent orange commission from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5747 Rules.

Sec. 5747. The department shall promulgate rules to implement this part.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Popular name: Act 368

333.5749 Phasing in studies and birth defects registry.

Sec. 5749. The studies and the birth defects registry called for under this part shall be phased in according to an orderly schedule established by the department, with the advice of the commission.

History: Add. 1987, Act 49, Imd. Eff. June 11, 1987.

Popular name: Act 368

PART 58
CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS

333.5801 "Child or youth with special health care needs" or "child" defined; general definitions and principles of construction.

Sec. 5801. (1) As used in this part, "child or youth with special health care needs" or "child" means a single or married individual under 26 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023.

Compiler's note: For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5805 Service to be developed, extended, and improved; purposes; referral of child to appropriate services; purposes of program.

Sec. 5805. (1) The department shall develop, extend, and improve services for the following purposes:

(a) To locate a child or youth with special health care needs reported to the department pursuant to section 5721.

(b) To provide medical, surgical, corrective, nutritional, and other services and care, including aftercare if necessary, and to provide facilities for diagnosing and hospitalizing a child or youth with special health care needs.

(c) To the extent possible, to prevent diseases and specified medical conditions that reduce an individual's normal capacity for education and self-support.

(2) The department shall refer a child reported to the department under section 5721 who is in need of services to the appropriate services inside or outside of the department.

(3) The department shall carry out the program established under section 5815 for the purposes of providing medical care and treatment to improve or maintain health and enhance the quality of life for children and youth with special health care needs.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 236, Eff. Oct. 1, 1988;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5811 Repealed. 2015, Act 91, Imd. Eff. June 25, 2015.

Compiler's note: The repealed section pertained to crippled children's advisory committee.

Popular name: Act 368

333.5815 Program of services; establishment and administration; rules.

Sec. 5815. The department shall establish and administer a program of services for children and youth with special health care needs and children who are suffering from conditions which lead to special health care needs because of disease or specified medical condition. In implementing this part, the department shall promulgate rules that do all of the following:

(a) Provide for the monitoring of the availability and quality of facilities, treatment centers, medical and surgical specialists, and other providers for children or youth with special health care needs.

(b) Implement section 5841.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

Administrative rules: R 722.601 et seq. of the Michigan Administrative Code.

333.5817 Duties of department.

Sec. 5817. The department shall do all of the following:

(a) Formulate and administer detailed policies to implement the program services stated in section 5805. The department shall include all of the following in the policies under this subdivision:

(*i*) Financial participation by this state.

(*ii*) Administration necessary for efficient operation of the policies.

(*iii*) Maintenance of records and preparation of reports of services rendered.

(*iv*) Cooperation with health and human services organizations and with any agency of this state charged with the administration of laws providing for vocational rehabilitation and special education of children and youth with special health care needs.

(b) Expend in accordance with the policies and money made available to this state by the federal government for those purposes.

(c) Develop systems of care that are community based, comprehensive, culturally competent, coordinated, and family centered.

(d) Cooperate with the federal government, under title V of the social security act, 42 USC 701 to 713, through its appropriate agency or instrumentality, in developing, extending, and improving services, provided by this part and in the administration of the policies.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5821 Diagnostic clinics and services; availability of examination results.

Sec. 5821. (1) The department shall provide for diagnostic clinics for children and youth with special health care needs in places, at times, and under circumstances it determines. The department may purchase diagnostic services from outpatient departments of approved hospitals and other facilities.

(2) The department shall make results of examinations at clinics available to parents and individuals and agencies providing services to children and youth with special health care needs, unless otherwise prohibited by law.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5823 Eligibility for services; application; investigation; medical evidence.

Sec. 5823. If a child or youth with special health care needs is identified, a person authorized by rule may apply to the department for eligibility for services under this part. The department shall investigate and secure medical evidence as to the condition of the child.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5825 Eligibility for services; determination; financial assessment; transportation; referrals.

Sec. 5825. Upon completion of the medical investigation under section 5823, the department shall promptly make a determination of medical eligibility. If the department determines that the child or youth with special health care needs is medically eligible for services under this part, the department shall perform a financial assessment to determine cost sharing responsibilities. The department shall authorize the transportation of an eligible child or youth with special health care needs to a provider of services approved and designated by the department. In consultation with the family, the department may facilitate transfer of a child or youth with special health care needs to a provider for treatment better adapted to the child's needs. In making referrals under this part the department shall not discriminate against health professionals qualified to render care.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5826 Approval of hospital, facilities, and specialists.

Sec. 5826. The department may approve for the rendering of services under this part a hospital maintaining clinical services and convalescent and educational facilities, including qualified instructional service, and attending medical and surgical specialists approved by the department.

History: 1978, Act 368, Eff. Sept. 30, 1978.

Popular name: Act 368

333.5828 Hospital bed to be provided; operation or treatment by physician or surgeon.

Sec. 5828. The administrator of a hospital shall provide a bed in the hospital to which a child or youth with special health care needs is assigned for operation or treatment, or both, of the child's disease or specified medical condition. The physician or surgeon approved by the department shall proceed as promptly as necessary to perform or give a necessary operation or treatment.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5831 Report from approved hospital; form; contents; time.

Sec. 5831. (1) An approved hospital receiving a child or youth with special health care needs shall send to the department a written report on a form furnished by the department that contains the date of admission and discharge, the names of approved physicians and surgeons, and other information the department requires.

(2) The time for making the report under subsection (1) must conform to applicable state and federal requirements.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5835 Educational services for hospitalized child; compliance; records.

Sec. 5835. (1) Upon receiving the parent's consent, an approved hospital shall arrange with the local school district in which a child resides to provide or contract for educational services for the hospitalized child.

(2) Courses of study, attendance record systems, adequacy of methods of instruction, qualifications of teachers and conditions under which they are employed, and purchases of necessary equipment for the instruction of a hospitalized child or youth with special health care needs must comply with requirements prescribed by the department of education.

(3) A hospital shall keep daily records on the regular child accounting forms used in the public schools, listing all children actually receiving instruction.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5841 Charges for medical care and treatment; agreement for payment; information; account; disposition of parent participation payments; modification or cancellation of agreement.

Sec. 5841. (1) All or part of the charges for the medical care and treatment of a child or youth with special health care needs must be paid to the department of treasury by the child, parent, or spouse, if that individual has the ability to pay. The payment must be in the amount and at a rate determined by agreement between the individual and the department. Upon treatment of the child or youth with special health care needs, the department shall furnish the department of treasury information required to keep a correct account of the money due this state from the child, parent, or spouse. The department of treasury shall credit the parent participation payments to the parent participation fund.

(2) The department may modify or cancel an agreement made under this section based on economic or other factors and shall report that action to the department of treasury.

(3) The department of treasury may accept and issue a receipt for an amount due under an agreement or modification to an agreement under this section.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5843 Cost of care and surgical and medical treatment; subrogation.

Sec. 5843. This state is subrogated to the rights of recovery that a child, parent, spouse, or guardian may have against a liable third party for the cost of care and surgical and medical treatment provided to a child or

youth with special health care needs under this part to the extent that the state has spent money for that care and treatment.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5847 Payments not considered social services aid; individual not considered indigent.

Sec. 5847. Payments made by this state under this part are not considered social services aid, and an individual is not considered an indigent because of his or her inability to pay for the care and treatment of a child or youth with special health care needs.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5861 Receiving and holding title to property; property as trust fund; disposition of property; children with special needs fund; minimum balance.

Sec. 5861. (1) The department may receive and hold title to real and personal property by gift, devise, bequest, and conveyance to be used for the purpose of carrying out this part. The property accepted must be held and used as a trust fund for the purposes for which received. The department promptly shall send the money, securities, or like personal property received to the department of treasury to be credited to the fund of this state designated by the donor or the department. The income from securities must be sent promptly to the department of treasury to be credited to the fund designated and must be likewise disbursed.

(2) The children with special needs fund that operates under this section shall maintain a minimum balance of $18,000,000.00. If the balance of the children with special needs fund is less than $18,000,000.00, no money shall be expended from that fund until the balance of the fund exceeds $18,000,000.00.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2016, Act 427, Eff. Apr. 4, 2017.

Popular name: Act 368

333.5863 Duties of department of treasury.

Sec. 5863. (1) The department of treasury shall do all of the following:

(a) Receive money granted to this state by the federal government under this part.

(b) Receive payments as provided in section 5841 and keep that money in the parent participation fund.

(c) Disburse money from the funds on certification by the department.

(2) The state treasurer shall direct the investment of the children with special needs fund. The state treasurer has the same authority to invest assets of the children with special needs fund as is granted to an investment fiduciary that is investing assets under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015;—Am. 2016, Act 427, Eff. Apr. 4, 2017.

Popular name: Act 368

333.5871 Entering home or taking charge of child or youth with special health care needs; power to accept or refuse services.

Sec. 5871. (1) A department official, agent, or representative shall not enter a home or take charge of a child or youth with special health care needs over the objection of a parent, a guardian, a person in loco parentis, or the person that has custody of the child.

(2) This part does not limit the power of a parent, guardian, or person in loco parentis of the child to accept or refuse the services offered under this part for a child or youth with special health care needs or by an agency employed for that purpose.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5874 Confidentiality of records; disclosure.

Sec. 5874. Records regarding a child or youth with special health care needs are confidential to the extent required by state and federal statutes and rules. Part 26 applies to the disclosure of information regarding a child or youth with special health care needs under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

333.5879 Unlawful conduct; misdemeanor.

Sec. 5879. (1) A person who wilfully makes a false statement or wilfully gives false information for the purpose of securing aid under this part is guilty of a misdemeanor.

(2) An official of a hospital or a physician or dentist who bills this state for the care of a child or youth with special health care needs in accordance with the fee schedules established under this part and who also attempts to force a parent, relative, or guardian of the child to pay an additional sum for the care is guilty of a misdemeanor.

History: 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

Popular name: Act 368

PART 58A
INFANT DEATH DUE TO UNSAFE SLEEP EDUCATION AND PREVENTION

333.5881 "Infant safe sleep act"; meanings of words and phrases; general definitions and principles of construction.

Sec. 5881. (1) This part may be referred to as the "infant safe sleep act".

(2) For purposes of this part, the words and phrases defined in sections 5883 to 5884 have the meanings ascribed to them in those sections unless the context requires otherwise.

(3) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this act.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5883 Definitions; H, I.

Sec. 5883. (1) "Health professional" means an individual licensed, registered, certified, or otherwise authorized to engage in a health profession under article 15.

(2) "Hospital" means a hospital licensed under article 17 that provides clinically related health services for obstetrical and infant care and includes a hospital operated by this state, a local governmental unit, or an agency. Hospital does not include an office used primarily for private or group practice by health professionals in which no reviewable, clinically related health services are offered.

(3) "Infant" means a child who is 12 months old or younger.

(4) "Infant death due to unsafe sleep" means infant death by suffocation, asphyxiation, or strangulation in a sleep environment.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5884 Definitions; P.

Sec. 5884. (1) "Parent" means a natural parent, stepparent, adoptive parent, legal guardian, or legal custodian of an infant.

(2) "Parent acknowledgment statement" means the statement of a parent on a form described in section 5885(2).

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Compiler's note: Act 368

333.5885 Infant safe sleep practices; information and materials to be provided by hospital; parent acknowledgment statement; form; birth occurring in setting other than hospital; use of materials consistent with or provided by department.

Sec. 5885. (1) A hospital shall provide to parents readily understandable information and educational and instructional materials regarding infant safe sleep practices. The materials described in this subsection must explain the risk factors associated with infant death due to unsafe sleep practices and emphasize infant safe sleep practices.

(2) A hospital shall prescribe the form of a parent acknowledgment statement. The form must include a place for a parent to sign, acknowledging that the parent has received the educational and instructional materials provided on the risk factors associated with infant death due to unsafe sleep practices and infant safe sleep practices.

(3) For a birth that occurs in a setting other than a hospital, the health professional in charge at the birth of an infant, or if none the health professional in charge of the care of an infant, shall provide the materials described in subsection (1) to a parent after the birth of an infant.

(4) To comply with this section, a hospital or health professional subject to this section may use educational and instructional materials provided by the department under subsection (5) or may use educational and instructional materials of its choice that are consistent with the materials provided by the department under subsection (5).

(5) Upon the request of a hospital or health professional subject to this section, the department shall provide, at no cost, to the hospital or health professional, educational and instructional materials described in section 5887(c).

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5886 Parent acknowledgment statement; liability of hospital or health professional.

Sec. 5886. (1) After receipt of the materials under section 5885, a parent may sign the parent acknowledgment statement. The hospital or health professional, as applicable, shall place the signed parent acknowledgment statement in the infant's permanent medical record. The hospital or health professional, as applicable, shall provide a copy of the signed parent acknowledgment statement to the parent who signed the statement.

(2) A hospital or health professional that complies with this part is not criminally or civilly liable for the action or inaction of a parent with regard to infant safe sleep practices pursuant to materials given to the parent under section 5885.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

333.5887 Duties of department and department of human services.

Sec. 5887. The department and the department of human services shall collaborate to do all of the following:

(a) Work to improve community-based services available to inform parents regarding the risk factors associated with infant death due to unsafe sleep practices and infant safe sleep practices.

(b) Work with other state and local governmental agencies, community organizations, health care and human service providers, and national organizations to coordinate efforts and maximize state and private resources in education regarding the risk factors associated with infant death due to unsafe sleep practices and infant safe sleep practices.

(c) Provide educational and instructional materials that explain the risk factors associated with infant death due to unsafe sleep practices, that include methods to reduce the risk of infant death due to unsafe sleep, and that emphasize infant safe sleep practices.

History: Add. 2014, Act 122, Eff. Aug. 12, 2014.

Popular name: Act 368

PART 59
MICHIGAN HEALTH INITIATIVE PROGRAM

333.5901 Definitions.

Sec. 5901. As used in this part:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "Advisory task force" means the task force created in section 5906.

(c) "Fund" means the Michigan health initiative fund created in section 5911.

(d) "HCV" means hepatitis C virus.

(e) "HIV" means human immunodeficiency virus.

(f) "Institute of higher education" means a public or private college or university. Institute of higher education includes a community college.

(g) "Risk reduction" means the process of identifying and reducing or eliminating behaviors or conditions, or both, that are harmful to physical or mental health, or both.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: For transfer of certain powers and duties of the center for health promotion and chronic disease prevention from the department of public health to the director of the department community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of certain powers and duties of the bureau of infectious disease control from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Popular name: Act 368

333.5903 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to creation of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5905 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to membership of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5906 Hepatitis C advisory task force; creation; membership; terms; chairperson and officers; compensation and expenses; business conducted at public meeting; writings; duties; abolishment of task force on June 30, 2010.

Sec. 5906. (1) The hepatitis C advisory task force is created in the department. The task force shall be appointed by the governor. The task force shall consist of 11 members including the director and his or her designee as an ex officio member, 1 member from an association representing local public health, and 9 members appointed from the following categories:

(a) Business and industry.

(b) Labor.

(c) Health care providers.

(d) The legal community.

(e) Religious organizations.

(f) State and local government.

(g) The education community.

(2) A health care provider member appointed pursuant to subsection (1) shall not be an employee of a state executive department or local health department, nor represent a facility or agency which is owned or operated by a state executive department or a local health department. To the extent practicable, the members appointed pursuant to subsection (1), except the director, shall be representative of the demographic composition and geographic regions of this state.

(3) The term of each member, other than the director, shall be 3 years, except that of the members first appointed, 4 shall serve for 3 years, 3 shall serve for 2 years, and 3 shall serve for 1 year. A member shall not serve more than 2 consecutive terms, whether partial or full. A vacancy on the task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. The task force biannually shall elect a chairperson and other officers and committees as considered appropriate by the task force. The actual and necessary per diem compensation and the schedule for reimbursement of expenses for the public members of the task force shall be the same as is established annually by the legislature for similar commissions or task forces that are reimbursed from the general fund.

(4) The business which the task force performs shall be conducted at a public meeting of the task force held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the task force in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) The task force shall do all of the following:

(a) Meet not less than quarterly at the call of the chairperson.

(b) Advise the governor and the legislature on policies regarding hepatitis C and risk reduction.

(c) Annually report to the governor and the legislature on major risk factors and preventable diseases or conditions including, but not limited to, hepatitis C.

(d) Make recommendations to the department regarding the allocation of money, if available, from the Michigan health initiative fund or any other source, including, but not limited to, the level of funding for grants under section 5925.

(e) Review and comment to the department on topics determined by the task force to be appropriate for the media campaign conducted under this part.

(f) Review and identify potential additional funding mechanisms and sources to cover the costs of outreach, awareness, available treatment options, and testing, for HCV.

(g) Make recommendations to the department regarding information to be utilized and incorporated into the HCV information package, including, but not limited to, information regarding the status of HCV in this state, state-supported testing and counseling programs, and research findings.

(6) The hepatitis C advisory task force created under this section is abolished effective June 30, 2010.

History: Add. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5907 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to business conducted at meeting of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5909 Repealed. 2006, Act 238, Imd. Eff. June 26, 2006.

Compiler's note: The repealed section pertained to duties of risk reduction and AIDS policy commission.

Popular name: Act 368

333.5911 Michigan health initiative fund; creation; administration; expenditures; fund cumulative; amounts credited to fund; investment of fund; crediting earnings; disposition and use of unencumbered balance.

Sec. 5911. (1) The Michigan health initiative fund is created in the state treasury and shall be administered by the department. The fund shall be expended only as provided in this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department.

(2) The state treasurer shall credit to the fund all amounts appropriated for that purpose under this section, section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.11. The state treasurer may receive money or other assets from any source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. Earnings shall be credited to the fund.

(4) The unencumbered balance remaining in the fund at the close of the fiscal year shall remain in the fund, and shall not revert to the general fund.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5913 Michigan health initiative information clearinghouse; establishment; accessibility; duties.

Sec. 5913. (1) The department shall utilize the fund to establish the Michigan health initiative information clearinghouse, which shall be accessible to the public statewide.

(2) The Michigan health initiative information clearinghouse shall, at a minimum, maintain and provide up-to-date information on both of the following:

(a) Major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS.

(b) Risk reduction service providers, HCV treatment programs, and AIDS treatment programs throughout the state.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5915 Media campaign; public service announcements.

Sec. 5915. (1) The department shall utilize the fund to produce or arrange for the production of a media campaign to disseminate information on risk reduction and major risk factors and preventable diseases and conditions including, but not limited to, HCV and AIDS, pursuant to the advice of the task force as provided under section 5906.

(2) In addition to the requirements of subsection (1), the department shall utilize the fund to produce or arrange for the production of public service announcements regarding risk reduction, HCV, and AIDS which shall be distributed to publicly supported radio and television stations and to cable television studios, and which may be distributed to commercial radio and television stations.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5917 Risk reduction and AIDS education module; approval process.

Sec. 5917. (1) The department shall utilize the fund, in cooperation with the state board of education, to develop and distribute a risk reduction and AIDS education module appropriate for pupils in elementary and secondary.

(2) The department shall make the risk reduction and AIDS education module available to each school district in the state.

(3) In addition to developing a module as described in subsection (1), the department, in cooperation with the state board of education, may develop a process for approving a risk reduction and AIDS education module developed by a school district.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

333.5919 Risk reduction, HCV information package, and AIDS information package.

Sec. 5919. The department shall utilize the fund to develop, in cooperation with institutions of higher education, a risk reduction, HCV information package, and AIDS information package that shall include, but not be limited to, information regarding testing, counseling, transmission, prevention, and treatment.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5921 Model AIDS information package; local AIDS information package.

Sec. 5921. (1) The department shall utilize the fund to develop annually a model AIDS information package which shall include, but not be limited to, information regarding the status of AIDS in this state, state supported testing and counseling programs, research findings, and access to the Michigan health initiative information clearinghouse established under section 5913.

(2) A local health department or a consortium of local health departments may apply to the department for funding to develop a local AIDS information package which may be used as an alternative to the state model developed under subsection (1). If the department provides funding under this subsection, the department shall approve the alternative AIDS information package before it is used by the local health department.

(3) The model AIDS information package developed under subsection (1) may be distributed to each residence in the state, except that the model AIDS information package need not be distributed to a residence to which an alternative AIDS information package developed and approved under subsection (2) has been distributed.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

333.5923 HIV and HCV testing; counseling; costs.

Sec. 5923. (1) The department shall utilize the fund to provide HIV testing free of charge to all residents of this state and all nonresident students enrolled in and attending a public or private college, university, or other postsecondary educational institution in this state. If additional funds are available, the department shall utilize the fund to provide HCV testing free of charge to residents of this state who are identified as high-risk and do not have health insurance, coverage, or benefits. All HIV and HCV testing under this section shall be performed by the department or a licensed clinical laboratory designated by the department.

(2) As a condition of receiving an HIV or HCV test under this section, the department shall require an individual who requests an HIV or HCV test to undergo counseling both before and after the test. The counseling may be provided by local health department personnel or an individual designated by the local health department who has undergone training approved by the department. The counseling shall be conducted pursuant to protocols approved by the department. If the counseling required under this subsection is provided by a local health department or an individual designated by the local health department, the cost of the counseling shall be paid by the local health department out of the distribution of funds made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475. If a distribution of funds is not made under section 5(c) of the health and safety fund act, 1987 PA 264, MCL 141.475, the cost of counseling provided under this subsection by a local health department or an individual designated by the local health department shall be paid by the department.

(3) A person who provides HIV or HCV testing or counseling under this section shall be reimbursed for the cost of the testing or counseling only by the department or a local health department, and shall not bill the individual receiving the services or any other person including, but not limited to, a third party payer.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 238, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5925 Employee wellness programs; grants; applications; rules.

Sec. 5925. (1) The department shall utilize the fund to provide grants for employee wellness programs which reduce the prevalence of high risk factors for employees. Programs funded under this section may provide services to employees, dependents of employees, and to retired employees.

(2) The department shall accept applications for funding from any employer or employee organization in

the state. The department shall give special consideration to programs which address more than 1 high risk factor and which are to be conducted by more than 1 employer or employee organization.

(3) The department shall promulgate rules to implement this section. The rules promulgated under this subsection shall be submitted for public hearing under the administrative procedures act of 1969 within 60 days after the effective date of this part.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

333.5927 Educational programs for health care workers; availability of educational materials to individuals at high risk for hepatitis C virus.

Sec. 5927. (1) The department shall utilize the fund to develop educational programs for health care workers, whether licensed or not, regarding the delivery of quality care and protection against exposure to disease in the workplace.

(2) The department shall utilize the fund to make available to health care workers, veterans, public safety officers, parolees, and other individuals at high risk for the hepatitis C virus educational materials, in written and electronic forms, on the diagnosis, treatment, and prevention of the hepatitis C virus. The educational materials shall include the recommendations of the federal centers for disease control and prevention regarding prevention and control of the hepatitis C virus. As used in this subsection, "public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or emergency medical services personnel.

History: Add. 1987, Act 258, Eff. July 1, 1988;—Am. 2006, Act 239, Imd. Eff. June 26, 2006.

Popular name: Act 368

333.5929 Local community demonstration and pilot projects; grants.

Sec. 5929. The department shall utilize the fund to provide grants for local community demonstration and pilot projects that provide a network of care to AIDS patients in a nonacute care setting. The department shall give special consideration to applicants with projects designed to provide care on a regional basis.

History: Add. 1987, Act 258, Eff. July 1, 1988.

Popular name: Act 368

PART 59A
HEALTHY MICHIGAN FUND

333.5951 “Fund” defined.

Sec. 5951. As used in this part, "fund" means the healthy Michigan fund created in section 5953.

History: Add. 1995, Act 121, Imd. Eff. June 30, 1995.

Popular name: Act 368

333.5953 Healthy Michigan fund; creation; expenditure; fund as additional appropriation; crediting amount and earnings; investment; grants or donations; availability of remaining funds; reversion.

Sec. 5953. (1) The healthy Michigan fund is created in the state treasury. The fund shall be expended only for the purposes described in section 36 of article IX of the state constitution of 1963 and as further provided in this part. The fund is in addition to, and is not intended as a replacement for, any other money appropriated to the department or other state agencies.

(2) The state treasurer shall credit to the fund all amounts dedicated for this purpose under section 36 of article IX of the state constitution of 1963 and any other amounts received by the state treasurer for the purpose of the fund.

(3) The state treasurer shall invest money in the fund in the same manner as surplus funds are invested under section 3 of Act No. 105 of the Public Acts of 1855, being section 21.143 of the Michigan Compiled Laws. Earnings shall be credited to the fund.

(4) Funds granted or funds received as gifts or donations to the fund shall be available for disbursement upon appropriation.

(5) Money remaining in the fund at the end of the fiscal year shall remain in the fund and be available for expenditure in the following year. The unencumbered balance at the close of the fiscal year shall not revert to the general fund.

History: Add. 1995, Act 121, Imd. Eff. June 30, 1995.

Popular name: Act 368

333.5955 Use and purpose of fund.

Sec. 5955. Money in the fund shall be used to improve the health of the citizens of this state. Programs receiving these funds shall address the needs of vulnerable populations. Appropriations from the fund may be made to the department or other state agencies, and shall include, but not be limited to, chronic disease prevention, smoking cessation, anti-tobacco activities, maternal and child health initiatives, immunization activities, poison control, and local public health surveillance and evaluations.

History: Add. 1995, Act 121, Imd. Eff. June 30, 1995.

Popular name: Act 368